

COUNCIL MEETING

APRIL 22, 2015

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Vice Chair Ross Kagawa at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, April 22, 2015 at 8:45 a.m., after which the following members answered the call of the roll:

Honorable Mason K. Chock (*present at 8:47 a.m.*)
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kualii
Honorable JoAnn A. Yukimura

Excused: Honorable Gary L. Hooser
 Honorable Mel Rapozo

APPROVAL OF AGENDA.

Councilmember Kualii moved for approval of the agenda as circulated, seconded by Councilmember Yukimura.

Council Vice Chair Kagawa: For your information, we will have a certificate presentation, followed by the public hearing and Resolution No. 2015-37, so that item will be taken up right after the public hearing.

The motion for approval of the agenda as circulated was then put, and carried by a 5:0:2 vote (Councilmember Hooser and Council Chair Rapozo were excused).

INTERVIEWS:

FIRE COMMISSION:

- Thomas M. Nizo – Term ending 12/31/2015

Council Vice Chair Kagawa: Welcome Thomas. Thank you for applying and volunteering your time. Do you want to give your opening statement or I can just open it up to the Councilmembers.

THOMAS NIZO: Good morning. I am born and raised here on Kaua'i. I went to the Kamehameha Schools, I graduated there, and then Kaua'i Community College (KCC). I got my degree in Business Administration. I have been working at Pacific Missile Range Facility (PMRF) for the last twenty (20) years, it is going to be twenty-one (21) next month. I am also working at the Historic Waimea Theater as the Manager and I have been doing a lot of community projects such as the Waimea Town Celebration for the last twenty (20) years.

Council Vice Chair Kagawa: Members, any questions for Mr. Nizo?

Councilmember Yukimura: Good morning, Thomas. First, thank you so much for being willing to serve, your great community service, and all the things you do, especially for the westside. I am interested in knowing why you would like to be on the Fire Commission and what you think you can do there.

Mr. Nizo: Serving with the Waimea Town Celebration for the last twenty (20) years, I just wanted to take another step towards serving the public and Kaua'i, especially on the westside. I want to branch out to the whole island in what I can offer to the residents and the island.

Councilmember Yukimura: I am sure you will get a new perspective from that Commission. Thank you again.

Mr. Nizo: *Mahalo.*

(Councilmember Chock was noted as present.)

Council Vice Chair Kagawa: Any other questions for Mr. Nizo, or having support for Mr. Nizo?

Councilmember Chock: Words of support; thank you for being here, my *braddah*. Good to see you. I appreciate the willingness to serve, continue to serve, and I know that you are going to do good for us, so I just thank you for your time and your volunteerism.

Councilmember Kualii: Mahalo for your service and for your willingness to step forward to serve on the Fire Commission. I see that you are working with the Kekaha Host Community Benefit Action Committee.

Mr. Nizo: Yes.

Councilmember Kualii: I am curious as to what has been your biggest challenge for participating in that group and how are you overcoming it?

Mr. Nizo: I think our biggest challenge is doing what we do with what we got. I know today some of the "Uncle's group" that is with us over in Kekaha, I think they are going to be meeting with the Mayor trying to ask for more money to complete the solar project. We just had a Citizens' Advisory Committee (CAC) meeting on Monday, and the biggest challenge is trying to provide for the community of Kekaha and trying to weigh out the benefit of having that money funneled to Kekaha and the impact the rubbish dump has on Kekaha for the last fifty (50) years. I think their idea of the amount of money versus the impact over the fifty (50) years is unbalanced in their minds, and just trying to overcome that and live within the means.

Councilmember Kaneshiro: I want to express my support for Thomas. I have known Thomas for a long time and I do not think it matters what Commission he is on, he would be a good pick for any Commission. I am just glad he is willing to volunteer his time to be on a Commission. Thank you, Thomas.

Mr. Nizo: *Mahalo.*

Council Vice Chair Kagawa: Thomas, thank you for volunteering your service as all the Councilmembers have stated. With your efforts in the community, I am sure you are an excellent addition to the Fire Commission. *Mahalo.* Anybody from the public wishing to testify? Seeing none, next please.

POLICE COMMISSION:

- Gerald Bahouth – Term ending 12/31/2016

Council Vice Chair Kagawa: Thank you, Gerald, for stepping up and volunteering your time. If you would like to start with an opening statement or I can go to the Councilmembers, if you choose.

GERALD BAHOUTH: My name is Gerald "Chip" Bahouth, and please call me Chip, Gerald is from a long time ago. I am presently the General Manager for the Sheraton Kaua'i Resort. I have been with Sheraton for over thirty-five (35) years. I came to Kaua'i probably about four (4) years ago and we made this island our home. I was fortunate enough to go to high school here back in the early '70s when my dad was here managing the Sheraton Kaua'i as well. I have some roots here on Kaua'i. I am going to be on Kaua'i at the end of my tenure with my company close to retirement at some point, hopefully. I see this as a great opportunity to begin some service to the community more broader-based than what I currently do at the hotel. That is how I see things.

Council Vice Chair Kagawa: Thank you. Any questions for Chip?

Councilmember Chock: Thank you for your time and service to the Commission. What do you think you can offer from your knowledge and background to this Commission?

Mr. Bahouth: My background is obviously in business, tourism, and running a business and so forth. I think my viewpoint or my perspective on the Commission from how they run their business would be beneficial to the Commission. My involvement in the hotel business and in tourism would bring another perspective to the Commission. I see those as probably two major highlights that I would offer the Commission.

Councilmember Chock: Do you have examples of how you had to deal with ethics issues in the past through your role or employment?

Mr. Bahouth: Yes, we have our own security department at the hotel, so we deal with things every day whether it is people trespassing, intoxication, et cetera. We also have a collective bargaining agreement at the hotel so I have to deal with the unions and understand the union contracts and so forth. From time to time you are going to get complaints, be it ethical from a customer or fellow associate or so forth, and they have to be dealt with very carefully. You have to make sure you have all perspectives in place before any decisions are made.

Councilmember Chock: Thank you.

Councilmember Kaneshiro: I want to commend Chip. I am going to state it upfront, I will be in support of Chip for the Police Commission. He is a great person. I have been able to deal with him for a long time, probably since you started at the Sheraton, and I am just really impressed with the candidates that we have today. I am really happy that we have great candidates. It makes our job easy. It is an easy vote to support. Thank you.

Councilmember Yukimura: Good morning, Chip.

Mr. Bahouth: Good morning.

Councilmember Yukimura: I am glad you had "Chip" in there because I would not have known who I was interviewing.

Mr. Bahouth: Yes, I know.

Councilmember Yukimura: I also want to thank you for your willingness to serve and also for all that you have done for the community through your position as Manager at the Sheraton. You say that the primary duties are to oversee the activities of the Police Department from a group leadership perspective, I was just curious as to what that means to you.

Mr. Bahouth: It is a group of people that come together to oversee the policies and procedures of what is happening in the Police force. I do not think there is one single overriding voice, but it is a voice of what everybody believes to be the right thing and how they can come together and make the right decision collectively for the Police Department.

Councilmember Yukimura: I see. You are right. It is a collective decision, just like around this table, involves a lot of sharing of perspectives and looking at information together and all that. You are aware that the Police Commission not only deals with policies, but is also the appointing body for the Police Chief.

Mr. Bahouth: Yes, I understand that that is what the Charter reads. I have not read through the complete Charter, but that is my understanding.

Councilmember Yukimura: There has been some question about the relationship between the Police Chief and the Mayor, but there is no question that the Police Commission appoints the Police Chief. That is a very important function of the Police Commission given that the Commission will be choosing and also holding accountable the person who leads a very important department in this County that affects people's lives on a daily basis. I would imagine that with your management experience, you have had quite a bit of experience in this arena in terms of going through an executive search, looking at how you make those selections, and also how you interact with the appointee.

Mr. Bahouth: Yes, very much so. Accountability is a big part of what my job is every day at work. I have thirty-seven (37) managers who are all running the hotel. I cannot do that every day. I have to put my trust and faith that they are doing the right thing, but at the same time have specific goals, direction, and a vision for them to get us to where we need to be. From a selection point, review point, perspective of coaching, and feedback – all those things take place every day in my job.

Councilmember Yukimura: That is really good to hear because that is a part of the role of the Police Commission and a very important role. I am glad to hear you mention goals because I think that is one of the key ways of holding our managers accountable. Setting forth goals that we mutually agree on and then checking in on how they are doing.

Mr. Bahouth: Yes.

Councilmember Yukimura: Thank you very much.

Councilmember Kualii: Aloha, I too want to say *mahalo* for your willingness to serve. Clearly as a General Manager, you had to make tough budgetary and other financial decisions and when I read the general powers of the Police Commission, the second point "B" says, "Review the annual budget prepared by the Chief of Police, and may make recommendations thereon to the Mayor." I hope

in your service this coming term, you would be willing to do that and not just take the “may” as something to pass on...because we are as a County in a time now where we are having to look for more efficiencies and to tighten the budget. In the next budget cycle, we are just coming to the end of this current one, but I hope you will participate and make some recommendations on how the Police Department can be more efficient.

Mr. Bahouth:

Yes, I will plan to.

Council Vice Chair Kagawa: Thank you, Chip. Like my fellow Councilmember, I just hope you can help to bring your business experience and try and help the Police Department be as efficient as possible. We hear during budget that they are driving around cars that have close to two hundred thousand (200,000) miles on them. Is it efficient for us to keep driving those cars with the maintenance that occurs when you drive a car with that much mileage on it or is it better to move on to a lease? Whatever the better business option, I hope that you can bring that to our County so that we do the most with taxpayers' money. *Mahalo*.

Mr. Bahouth: Thank you. Is there anyone from the public wish to testify? Step right up, and please state your name.

CHARLES C.C. IONA, Vice Chair, Kaua'i Police Commission: Good morning, Councilmembers. I am here to support Mr. Gerald Bahouth, better known as “Chip.” I have known him for some time now and when his name first surfaced, I knew that he could be that conduit that is linked between the community, the Police Department, and this County. He is very accessible and has been that way from day one. I know we can view it as troubled times with law enforcement that the community themselves always reaches out to an ear and a lot of times they reach out to the Commission. He has that face that is very approachable and he is very pragmatic at what he does, and he lays everything out on the table. I have worked with him personally on some other issues at the hotel and I was really impressed at how he problem solved those issues. I think all in all he will bring that dimension to the Police Commission. When you can add someone with a wealth of knowledge that he has, it only better the Commission as a whole, it does not take it backwards. I definitely support Mr. Bahouth.

Council Vice Chair Kagawa: Thank you, Charlie. Any questions for Charlie? If not, anybody else wishing to speak?

ERNEST KANEKOA, JR., Chair, Kaua'i Police Commission: Good morning. I am here to support Chip. I never knew your name was Gerald. I have known and worked with Chip for thirty-five plus (35+) years, so I have known him from way back when. He brings a business sense and that is what I think we need on the Police Commission for those that are off, we need people who are business educated and so forth. As you know we have been dealing with some tough issues and so far we have been doing well. With the addition of Chip, I think that he will be good for the Commission and Kaua'i.

Council Vice Chair Kagawa: Thank you. Any questions? Seeing none, anybody else from the public wishing to speak? Seeing none, can we move on to the next interview?

BOARD OF ETHICS:

- Addison C. Bulosan – Term ending 12/31/2015

ADDISON C. BULOSAN: Good morning, I am Dr. Addison Bulosan. Thank you for having me here. Just to open, I am really excited to be back home. I just moved back home after living away for the past ten (10) years, and I have always wanted to come home to serve and come back to give back. Many of the opportunities I have had here on the island were because of the County of Kaua'i and the people that are involved, and so returning back, the number one goal for me is to give back. I would not want to find another place to serve. It sounds weird coming from someone at my age, you think about ethics, you are thinking a whole different brand of understanding and social fabric. I did not really get to understand what ethics...in a formal way understand what that was until going to chiropractic school and understanding that I have a code of ethics personally and a code of ethics in my profession. I realize how important that is in our society and how important it is for us to learn about it, not to just learn about it, but to abide by it and allow us to function under it. With that, I want to make that a part of my service to the island and make sure that I go above and beyond, not to just be a citizen of Kaua'i, but to serve in that capacity.

Council Vice Chair Kagawa: Thank you, Addison, I really appreciate your comments. Members, any questions for Addison.

Councilmember Chock: Good morning. No questions. I just want to share my support of your appointment. Thank you for your service. I know that we have had through our leadership exploration together, some time to talk about ethics and values. I think you will bring a good foundation in order to address some of the ongoing needs that the Ethics Commission has to deal with. Thank you.

Mr. Bulosan: Thank you.

Councilmember Kualii: Aloha, and I do want to say *mahalo* as well for your willingness to serve and congratulations on making it back home, ten (10) years is a long time. I know I was away for ten (10) years too, and I always was homesick and sometimes there are all kinds of opportunities and it keeps you up there, but your heart is always here and so you made it back home and you are jumping right in and being willing to serve. That is pretty awesome too, so thank you and I wish you all the best.

Mr. Bulosan: Thank you.

Councilmember Kaneshiro: I just want to show my support for Addison. Addison has been wonderful. He has come back and opened up his own business. He has pretty much hit the ground running, as far as trying to find volunteer opportunities. I have all the confidence in Addison being on this Board. It is not an easy Board. I have been in front of them, and I can tell you that the decisions are not black and white, but Addison has a great head on his shoulders, he is able to listen to the information, and make an independent decision. I respect the decision of the Board and whatever they come up with. Addison is an appropriate person for the Board, but again, it is tough, you have to draw a line somewhere and that line is not always clear, especially at the Board of Ethics as far as how strict you want to be or how lenient you want to be, and where do you want to draw the line in between. I am glad you are willing to volunteer your time and be on a board like that.

Mr. Bulosan: Thank you.

Councilmember Yukimura: Good morning, Addison.

Mr. Bulosan: Good morning.

Councilmember Yukimura: It is wonderful to see a young person like yourself, a professional and entrepreneur, offer your services to the County, so thank you for that. I think your grandfather would be so proud since you are following in his tradition. He was a consistent volunteer and gave such service to the community. Not to mention your grandmother who is also wonderful. As Councilmember Kaneshiro has said, you have chosen a really challenging board to sit on because they are no black and white decisions and they are hard to make sometimes. My question is how are you at making hard decisions?

Mr. Bulosan: Great question. They come often for me. My profession is designed to take on someone who is suffering or needs help and making the right decision to help them be well. A lot of times our motto in the health profession is "do no harm," that is the first step, and so we would not recommend anything that would not take care of the person. It is the same way in these decisions too. There is a process that I go through in my mind and it has to come together for me. There is a part where you want to look at all the facts and figures, and understand how everything is factual, and then there is a part of your heart where you understand that this is not just a set of words in the code of ethics but it is a person and a decision. We have to factor out all those things and given the amount of time that we get, if we have the right amount of time, we can make the best decision, and sometimes we do not, but those are the parts where I get uncomfortable. It is needed for our community. To be put into that situation is often in my career already. I am really confident that I will be able to contribute to this group, the Board of Ethics, to provide assistance and understanding, and making those decisions in that sense.

Councilmember Yukimura: You show great insight into difficult decision-making processes because you are right, there are facts, figures, and issues of the heart. Often there is not time to get all the facts and figures, and you have to make decisions in a situation with incomplete information and that makes it even harder. You are right, you have to look at the person or persons in front of you. I also like from your written text here that you also understand the role of ethics to the bigger society and to the system and so I believe you recognize the balancing that has to go on.

Mr. Bulosan: Yes.

Councilmember Yukimura: Well, your answer gives me confidence that you will be able to navigate these difficult issues and questions thoughtfully and that is so important because ethics is, as we are seeing from some statewide issues that have come up, really important to government. Thank you very much.

Council Vice Chair Kagawa: I would like to close by offering my support, Addison. Sometimes when you hear great testimony that you want to hear like what you said, but for me, I felt that it was really sincere and so I really thank you for stepping up and offering to give back to the island. This is a time that we really need that kind of strong leadership because times are tough right now, and we need good solid decisions. Thank you, and I know you will do a great job. In closing, I would like to thank Paula, I think we have three (3) outstanding individuals. Paula has brought to us a wide variety of outstanding individuals in her time and we cannot thank her enough for the job that she has done. *Mahalo*.

Mr. Bulosan: Thank you.

Council Vice Chair Kagawa: With that, we will be voting today on all of your appointments, and I am sure Paula will let you know as soon as we have taken that vote. *Mahalo*. With that, the Council Meeting will be in recess.

There being no objections, the Council recessed at 9:12 a.m.

The meeting was called back to order at 9:31 a.m., and proceeded as follows:

Council Vice Chair Kagawa: Clerk, can we please have the next item.

MINUTES of the following meetings of the Council:

March 11, 2015 Special Council Meeting
March 11, 2015 Council Meeting
March 25, 2015 Special Council Meeting
April 1, 2015 Special Council Meeting

Councilmember Kualii moved to approve the Minutes as circulated, seconded by Councilmember Yukimura, and carried by a 5:0:2 vote (Councilmember Hooser and Council Chair Rapozo were excused).

CONSENT CALENDAR:

C 2015-120 Communication (04/02/2015) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointees to the various Boards and Commissions for the County of Kaua'i:

Board of Ethics

- Addison C. Bulosan – Term ending 12/31/2015

Fire Commission

- Thomas M. Nizo – Term ending 12/31/2015

C 2015-121 Communication (04/07/2015) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral appointees to the various Boards and Commissions for the County of Kaua'i:

Civil Service Commission

- Jeffrey S. Iida – Term ending 12/31/2017

Police Commission

- Gerald Bahouth – Term ending 12/31/2016

C 2015-122 Communication (04/07/2015) from the Director of Human Resources, transmitting for Council information, the January-March 2015 Quarterly Report, pursuant to Section 19 of Ordinance No. B-2014-781, relating to the Operating Budget of the County of Kaua'i for the Fiscal Year 2014-2015, which includes new hires, transfers, reallocations, promotions, and vacancies for the third quarter.

C 2015-133 Communication (04/14/2015) from the Director of Planning, transmitting the Planning Commission's recommendation to amend Chapter 8, Kaua'i County Code 1987, as amended, to identify an enforceable homestay definition and processing parameters under which homestay operations can be permitted with a Use Permit.

Councilmember Kualii moved to receive C 2015-120, C 2015-121, C 2015-122, and C 2015-133 for the record, seconded by Councilmember Yukimura.

Council Vice Chair Kagawa: Any discussion?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2015-120, C 2015-121, C 2015-122, and C 2015-133 for the record was then put, and carried by a 5:0:2 vote (Councilmember Hooser and Council Chair Rapozo were excused).

COMMUNICATIONS:

C 2015-123 Communication (03/24/2015) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal Highway Safety funds from the State of Hawai'i Department of Transportation in the amount of \$162,529, to be used towards continuing the funding of 1.00 full-time equivalent (FTE) Special Prosecuting Attorney, travel, and training: Councilmember Chock moved to approve C 2015-123, seconded by Councilmember Kualii.

Council Vice Chair Kagawa: Any discussion? Members, do you have questions for Jamie? Seeing none, would anyone from the public wish to speak on this matter?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2015-123 was then put, and carried by a 5:0:2 vote (Councilmember Hooser and Council Chair Rapozo were excused).

Councilmember Kualii: Council Vice Chair, in an abundance of caution, I will recuse myself from this item as there is a small portion of this grant that looks like is being written to go towards the YWCA.

Council Vice Chair Kagawa: Thank you, Councilmember Kualii, you may be excused.

C 2015-124 Communication (03/24/2015) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend grant funding from the Department of Justice, Office on Violence Against Women in the amount of \$590,204, to be used towards funding 1.00 full-time equivalent (FTE) Special Prosecuting Attorney, 1.00 FTE Legal Clerk, fringe benefits, travel, equipment, and training, which will be used to contract with the YWCA of Kaua'i for the Sexual Assault Treatment Program the grant period is for three (3) years (October 1, 2015 to September 30, 2018): Councilmember Chock moved to approve C 2015-124, seconded by Councilmember Yukimura.

(Councilmember Kualii was noted as recused from C 2015-124).

Council Vice Chair Kagawa: Any discussion? Any questions for Jamie? Seeing none, anybody from the public wishing to speak on this matter?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2015-124 was then put, and carried by a 5:0:2 vote (Councilmember Hooser and Council Chair Rapozo were excused).

C 2015-125 Communication (03/27/2015) from the County Engineer, requesting Council approval of the proposed Fiscal Year 2015 Island Wide Road Resurfacing List: Councilmember Chock moved to approve C 2015-125, seconded by Councilmember Kaneshiro.

Council Vice Chair Kagawa: Questions for Mr. Dill? Larry, could you come up. There is a question from Councilmember Yukimura.

Councilmember Yukimura: I do not have that list in my packet.

LARRY DILL, P.E., County Engineer: It is there. It is towards the back.

Councilmember Yukimura: I can ask you a general question. How was this list developed?

Mr. Dill: Good morning. We made a detailed presentation to the Council about how we generated this list during budget. I will just briefly recap that presentation. We hired a consultant within the last couple of years. We did an entire survey of all three hundred (300) miles of County roads. We established a PCI (pavement condition index) for each section of road, established what we call an "RSL" or resurfacing service life for each road, and also provided a recommended treatment. We started with that information to develop a priority list. We also took a look at what the average annual daily traffic is on that road, the more traffic on that road, the higher priority is given as far as resurfacing is concerned. The reality is that we do not have that exact data for all of our roads so in a lot of cases we had to make estimates based on local knowledge, if you will. We are working on a program in our Engineering Division to increase the amount of data we have for all the County roads, increasing our number of traffic counters and actually working on establishing a program to improve that data set. We also took a look at what facilities are serviced by the roads. If it serves a critical facility, that would also serve to increase its priority. We worked with the Planning Department because they are ahead of us as far as GIS (geographic information systems) and have a lot of that information already residing in GIS. It helps us to take a look at all of those criteria and overlay them in GIS to help us again to establish what the highest priority roads are. Having done that, we take a look at where the highest priorities are and one of the reasons we do that is because it is our goal to minimize the amount of mobilization and demobilization required by the contract in order to get the work done. Of course, every mobilization and demobilization required by the contractor costs money and we want to have the contractor spend their time on the roadway resurfacing and reconstruction rather than moving from site to site. That is a thirty thousand (30,000) foot recap of the presentation we gave to you during the budget as to how we established the list.

Councilmember Yukimura: Thank you. That is an excellent answer, if I think back to the kinds of answers we used to get about five (5) or ten (10) years ago.

Mr. Dill: Thank you.

Councilmember Yukimura: How many miles total are being paved here?

Mr. Dill: If you take a look at the screen, you will see the column on the right, has the miles.

Councilmember Yukimura: Right, did someone add it up?

Mr. Dill: Is there a total at the bottom?

Councilmember Yukimura: Is that one point three nine (1.39)? Somebody add that up before we act on this. The reason is we have three hundred (300) miles of road. I do not know how many miles need repaving right now, but we have been told that if we bring every road up to preventive maintenance standards that it would cost us a hundred million dollars (\$100,000,000). I am just trying to understand what portion of this road does...I mean this repaving program does and how it is moving us toward an ultimately responsible and professional approach to repaving our roads.

Mr. Dill: Good question. By my quick addition it is five (5), five and a half (5.50) miles of road.

Councilmember Yukimura: Okay, and this is a biannual repaving program, so we are going to do five and a half (5.50) miles of road every two (2) years, that is not going to get us...

Mr. Dill: It is going to take a while.

Councilmember Yukimura: Well, not only is it going to take a while, but we will have constantly deteriorating roads that are getting to a worst position which will cost more money when we get to repaving it.

Mr. Dill: That is correct. We will never catch up.

Councilmember Yukimura: Right. Are you folks working on a program including a financing function that goes to show us how to get out of this terrible...what is that wheel that mice run on that never get anywhere?

Mr. Dill: Unfortunately, the significant part of that solution is simply finding funding. What we are doing now is to leverage as best as we can. If you take a look at the first three (3) roads up there, collectors, that is going to be a Federal Highways funded project. You probably know that right now we have taken part of the resurfacing moneys and we are using that for a current collector road resurfacing project in Kapa'a, we are resurfacing three (3) collector roads, we are leveraging, and I apologize I do not have the numbers in front of me, but using a twenty percent (20%) match. It is eighty percent (80%) Federally funded under the County's resurfacing program, so we are doing more with County funds, but still that is not enough. We came before Council with a proposal to increase the weight taxes, recently, which what we thought was a reasonable proposal in light of the fact that our weight taxes are less than the other counties. We wanted to bring them up to the average of the other counties and that would have generated more funds to help us catch up. Council did not see fit to approve that for some reasons. We are also looking at the possibilities...you are aware that the Legislators are looking at a GET (general excise tax) possibility.

Councilmember Yukimura: Excuse me but the GET is meant for mainly transit.

Mr. Dill: My understanding is that the GET is for transit and road maintenance.

Councilmember Yukimura: It can be used for roads, but why should we spend money that could be used to get us out of this trap and get us into a more multi-modal function instead of just keep building new roads and not be able to catch up in our repaving when users of the road system should be helping to pay for it?

Mr. Dill: I was not speaking in terms of building new roads, I am talking about roadway maintenance.

Councilmember Yukimura: So you are not going to propose it for building new roads?

Mr. Dill: All I am talking about is what I read so far in how the bill is written.

Council Vice Chair Kagawa: Excuse me, that is not on the agenda right now. Can we focus on this road resurfacing list.

Councilmember Yukimura: Excuse me, this is on the agenda because it is talking about how we are going to finance the road repaving system so that these lists will take us to a repaving program that is going to be cost effective. Was it the Administration's plan to use the additional moneys from the vehicle weight tax proposal to repave our roads?

Mr. Dill: Correct.

Councilmember Yukimura: How many more roads could we repave with the moneys that we were going to have?

Mr. Dill: I did not bring that number with me. It was all given in that presentation. I can forward that over again, but I am sure you have that somewhere.

Council Vice Chair Kagawa: Again, the vehicle weight tax is not on the agenda right now. It is an additional eight hundred thousand dollars (\$800,000) that would have been taxed on the cars. It is very hypothetical for Larry to say where he would spend eight hundred thousand dollars (\$800,000) that he does not have right now. Councilmember Yukimura, you can continue. Do you have anymore questions on this list? I want to stick to this road resurfacing list, other members have questions.

Councilmember Yukimura: If you use frequency of travel as the criteria, what happens to those roads that are not frequently traveled? Will they ever get repaved?

Mr. Dill: That is a good question. We struggled with that. On very low volume roads, it is difficult for them to rise on the priority list to include in the islandwide resurfacing. One of the other criteria is safety. If a road is in bad enough shape that it causes safety issues, that would also increase its priority. You are absolutely correct that it is difficult for those roads to rise to the top when we are so far behind on our high traffic roads to justify spending money on the low volume roads. That is a challenge.

Councilmember Yukimura: And yet even those roads, if you could do it in a timely way, would be less costly to repave than if you would just let them deteriorate until they get high on your list.

Mr. Dill: That is correct, yes.

Councilmember Yukimura: Thank you.

Council Vice Chair Kagawa: Thank you. Anymore questions for Mr. Dill? Larry, I am looking at the second local roads, Hanalima Street, is that the one in front of the condos or apartments?

Mr. Dill: That road intersects with Puhi Road and goes one way in to the Puhi industrial subdivision and the other way into the residential area.

Council Vice Chair Kagawa: That is the highly traveled road that abuts Chiefess?

Mr. Dill: No.

Council Vice Chair Kagawa: No.

Mr. Dill: No. If you go down Puhi Road.

Council Vice Chair Kagawa: Yes.

Mr. Dill: And you turn right at the Puhi industrial subdivision, that is Hanalima.

Council Vice Chair Kagawa: Oh, that is Hanalima.

Mr. Dill: So, one way it goes into the industrial area and the other way goes into the residential area. That is the main road accessing both of those subdivisions.

Council Vice Chair Kagawa: Okay, that road is very bad.

Mr. Dill: Yes.

Council Vice Chair Kagawa: I was just trying to go down the list. Can we scroll down a little bit? I just wanted the public to see all of these roads that are on the list, again, it is an administrative function to pick which ones to do, but the Council can make noise and try to bring up other alternatives. Larry, going back to the top, I just wanted to...you had one point nine (1.9) million...I am going backwards, I told him to go down, and I am talking about the up. Those roads that were on the Federal funding list?.

Mr. Dill: Yes.

Council Vice Chair Kagawa: We paid twenty percent (20%) of the one point nine million (1,900,000)? Is that the County's share?

Mr. Dill: Let us go back to the top.

Council Vice Chair Kagawa: Scott, can we go back to the top, I am sorry.

Mr. Dill: There you go. The one point nine million (1,900,000) represents the total amount of County funds for this work. The top three (3) roads is a portion of that, so actually if you subtract, if you look below that underneath the local roads you will see the one point five, five (1.55). The difference is what we are estimating for the collector roads. So it is about three hundred sixty thousand dollars (\$360,000) and multiply that five (5) by five (5), gives you the amount of the total money because that represents our County's twenty percent (20%) match. The difference between those two numbers and then eighty percent (80%) will be Federally funded.

Council Vice Chair Kagawa: So, this is County money?

Mr. Dill: The one point nine (1.9) is County money, yes, that is the total amount.

Council Vice Chair Kagawa: If the general public looked at this, not too many people would know exactly where a road was unless they lived on that road.

Mr. Dill: Right.

Council Vice Chair Kagawa: But it is only point six, six (0.66) miles, Kawaihau Road, we know that road is well traveled.

Mr. Dill: Right.

Council Vice Chair Kagawa: Can you give a brief description including landmarks in between Saint Catherine's and the Athletic Club, where is that portion?

Mr. Dill: I apologize...

Council Vice Chair Kagawa: The highway to Nunu Road.

Mr. Dill: Starts at the highway to maybe the...you know I could not tell you where Nunu Road is, but I would guess it is two-thirds of a mile.

Council Vice Chair Kagawa: To Mahelona Hospital, maybe? Not sure.

Councilmember Yukimura: Point six, six (0.66) miles.

Mr. Dill: Yes. My apologies, I do not have that specific information.

Councilmember Yukimura: So that is about a little over half a mile up from Kūhiō Highway.

Council Vice Chair Kagawa: For the public if you were wondering and want to get this list, you can get it from the Council's Office, and it would be nice if you would post it as well. I do not know if Public Works can quickly post this page. Questions from Councilmember Kuali'i. Thank you for your update.

Councilmember Kuali'i: This list, if you added a couple of columns and in the first column where you have the name of the street, if in parentheses you would just add a descriptor as he is saying, because most people would not know where the street is necessarily. You do have a column that lists the district, like in Kapa'a,

there are a lot of streets in Kapa'a and unless you live in that particular area you would not know. To describe in that first column more than just the name, you would add in parentheses after the name and in some of it there is Puhi Road to the end, Hanalima Street. What would also be interesting is to have two (2) more columns estimating the funding that is being dedicated to each, so you would put a column showing County funds and a column of other funds or State funds.

Mr. Dill: I understand the request. The other side of the coin is we are going to put this out to bid, and I am not sure that I want to tip our hand.

Councilmember Kualii: Maybe to just our Office then.

Mr. Dill: Yes, okay, thank you.

Councilmember Kualii: For the Council and not for the public.

Council Vice Chair Kagawa: Larry, I have another follow-up and this one is just a suggestion, but it is also a question. Is this a two (2) year project?

Mr. Dill: This project, our intent is to get this out this fiscal year, by June 30.

Council Vice Chair Kagawa: Okay, and then the next road resurfacing list would be when?

Mr. Dill: In two (2) years.

Council Vice Chair Kagawa: I guess what would be nice is what list is projected for those two (2) years, because I am sure we know which one is...and it may not be a hundred percent (100%) accurate, but I think it is good if the public could see it and then that would maybe limit some complaints or calls. It is just like in baseball, who is on deck; what roads are on deck and coming up next on this list? I think that is what the Council used to do back in the old days, but I think now there are a lot more roads than thirty (30) years ago when I was here. Any more questions?

Councilmember Chock: Typically I would not ask for more detail, but I think based on the presentation that we had and with the direction of Councilmember Yukimura's question in how do we get there because we never will, based on what we have planned here. It would be good to...and if it is just for the Council, that is fine, but to kind of map that out so that we can at least start to get a sense of how we are going to reach those unobtainable goals, because it is difficult to put the two together based on the presentation we saw and the request for how we are going to use funding, which is nowhere near really...when I look at this figure and the eight hundred thousand dollars (\$800,000) that we are talking about adding to get to our goal, it still does not seem like we are going to get there. Can we somehow connect the two, it would be helpful, and maybe it would show us a more comprehensive plan. That is a separate thing right now, I understand, but in the future that might be helpful.

Mr. Dill: That is a reasonable question and my response to that is, I believe, Council Vice Chair Kagawa had mentioned that he had (inaudible). I think that was for the first six (6) months, because we are going to implement it on January 1st, so actually after the first fiscal year, it would be one point six (1.6) a year, I think. It was a significant amount of additional funding compared to what we have currently for resurfacing. Now, we presented that plan to

the Council and it involved a significant portion coming from increasing the weight tax the which Council did not approve. I have also mentioned another potential source of funding, but there is not agreement on how that money should be spent at this time either. It is difficult for me to provide a plan when the Council has already disapproved our proposal on the means that we have that are currently available to fund that work. It is a difficult proposition and I need the Council's help in finding funds to fund this enormous project.

Council Vice Chair Kagawa: Larry, in following up, the Council on first reading, I think if the Administration was watching, there were statements made by myself that said that if you had a plan to repave more roads, I would be willing to look into our reserves for funding. I think roads are that important.

Mr. Dill: Okay.

Council Vice Chair Kagawa: It is just a matter of whether I thought the Council should be taxing the cars two (2) years in a row; increasing the tax on the cars two (2) years in a row. To me, that was a little too much. If you tax cars in one year, maybe in the next year you give it a rest. That was just where I was coming from. It was not about, "roads are not important," so that is the statement that I made. Do not stop on the road resurfacing plans, Larry, bring it. You need to bring it and then we need to see if our savings can be tapped for that. Then it can become a 4:3 vote and we will get the job done. You will not have to worry about who stopped your plan, we are not stopping your plan. Keep it coming. We can use our savings, if we need to.

Councilmember Chock: I would agree, if we had gotten that presentation before or had more discussions prior to just forcing the bill out there, I think you might have had a different outcome. Do not give up.

Mr. Dill: We made a detailed presentation a few months before we came with that bill.

Councilmember Chock: Sure.

Councilmember Yukimura: Yes.

Councilmember Chock: So, making that connection is still important. I just do not want you to feel that we are not trying to give you what you need...

Mr. Dill: I appreciate that.

Councilmember Chock: It is just that it works both ways, that is all.

Councilmember Yukimura: I want to point out that we killed it on first reading. They could have come to Committee and explain the connection. I proposed a plan to use the excise tax that would have freed up two to three million dollars of the fuel tax, so you would have that without taking from the transit tax, and that is an option. That would be two to three million plus another one point six million from the tax and I want to say that we did not charge the larger uses of weight tax last year. So, they have not been charged the weight tax for many years now, I do not know how many years, and they are causing the most damage to the road. I think the Administration has presented us with a plan, we have just not really tried to understand it, and the connection for it. We need to go back to first base and all of us get a plan in order otherwise all of us are going to be paying more money, either to

reconstruct roads because they have been allowed to deteriorate so much, or to fix our cars which are getting busted up. Thank you.

Council Vice Chair Kagawa: Thank you. Any more questions for Larry? If not, we have two (2) registered speakers.

GLENN MICKENS: My testimony will go longer than the three (3) minutes, so I hope I can come back for the other three (3) minutes.

Council Vice Chair Kagawa: You got it.

Mr. Mickens: There are so many questions to ask it would take a lot longer than six (6) minutes, but let me start. Before this Council approves...and I presume that this is the list...am I right? Is this our repaving list?

Council Vice Chair Kagawa: You are correct.

Mr. Mickens: This is a repaving list from the last time, 2011-2012, it is about ten (10) pages or something...this is not a regular thing so I do not quite understand this. Before this Council approves the proposed Fiscal Year (FY) 2015 islandwide resurfacing list, I would highly suggest that you know exactly what is going to be done and what needs to be done. You heard me testify before this Council and others for twenty (20) years about our roads and the illegal way they are being paved. According to our paving bids we are supposedly using one (1) ton of AC (asphalt concrete) per ninety (90) and ninety-five (95) square feet which would give a final lift of almost two (2) inches.

The bid called for a final lift of one and a half (1 ½) inches which would be one (1) ton of AC per one hundred eight (108) square feet and now Larry is using this formula.

The illegal part I have talked about for so many years is that a check of our roads has shown that the final lift coming off our roads, I got the asphalt here, was only ½ to ¾ of an inch, is as this from Hauiki Road. So not only were we not getting the nearly two inches of final lift that the one (1) ton per ninety (90) square feet showed, we were not ever getting the one and a half (1 ½) inches that the bid was calling for. There is something very wrong when an issue like this is ignored for so long, knowing that a problem exists, but no one wants to address it – not even when you have Charter Section 3.17 to assist you. A problem costing the taxpayers millions of dollars.

Even though I am encouraged by what Larry says he is going to do with our roads, using the HAPI (Hawai'i Asphalt Paving Industry) standards to pave, I really compliment him for that, I think it would be prudent to ask him a few questions. One, since the majority of our three hundred (300) miles of roads are very old, how will he be able to use the Micro Paving system to show what was done and what has to be done to redo the total sub base? Using it for newly paved roads would be great, but without knowing what sub base or level course is there, how could the right information be put into Micro Paver? Two, our County, not the contractor was responsible for leveling the easements with our resurfaced roads, but this has not been done, which leaves a potential accident to happen. What will Ed or Larry do about this? Three, pot holes were to be fixed by a certain County Code; cut affected area, put in a new sub base, if needed, and fill with hot mix. This has not been done as a site visit will show. Four, most roads elsewhere are three to six (3-6) inches thick, final lift, for longevity. Before we put down one and a half (1 ½) inches, should we not reevaluate what thickness we need to get the best bang for our buck?

I see the red light is on, do you want me to come back?

Council Vice Chair Kagawa: Yes, thank you, Glenn.

TEK NICKERSON: Aloha Council. I appreciate the comment about the public trying to identify where the repaving is supposed to take place. I have been here ten (10) years and I certainly do not know all the names of the roads and so it is difficult for me, but I read a map and I can highlight a map, and he can publish a highlighted map to show us where he is going to pave. That makes sense because everybody can read that. Number two, it is about sacred cows. Some years ago I noticed that a flag man who is working with a crew for doing road repair is getting paid sixty-eight dollars (\$68) an hour. I thought, "Wow, that is a lot," well, apparently his rate has doubled or has increased substantially because there is traffic going by him and he has increased risk. The guy operating the machinery near him is getting a lot more because there is traffic going by him, and the sacred cow that I am suggesting is that we review and reduce the wages of the workers along these areas – we can probably get a lot more done. Third, a number of years ago at the Kaua'i Health and Wellness Association's Expo, one of the featured speakers spoke about a paving system which was extremely cheap and durable. I think what she was talking about is similar to what is called, "laterite." If you clear cut the Brazilian rain forest, as similar to our own here, and you level it with road building machinery, it sets up like concrete. She was referring to something that was similar to that which was highly durable. My suggestion is that we do some reviewing about how we can think outside the box without having to use concrete or asphalt. What are our alternatives and when is that appropriate? Thank you very much.

Council Vice Chair Kagawa: Thank you. Any questions for Tek? Seeing none, anybody else besides Glenn wishing to speak on this matter? Joe.

JOE ROSA: Good morning Members of the Council. I hear all these kinds of things about paving and everything. JoAnn, you have a lot to learn about paving. You are way off base, I hate to say it, and be critical of you. I worked twenty (20) years doing paving. What I hear about the lack of paving on highways... ten (10) years ago the bike path got started, and ten (10) years ago that is when all the paving of County roads has been lacking. I also say that because in 2004 the road where I lived was supposed to have been paved when Ron Kouchi was a Councilmember. It took thirty (30) years before they paved that area. From 2004 when they were scheduled to pave I had a letter from the Council saying that it was going to be paved. It took them to 2014, last year. The reason it was basically ten (10) years, the bike path got started, it was supposed to ease the traffic in Kapa'a Town and the Waipouli area. We got the bike path from Keālia to Waipouli, to Lydgate Park, where is the easing of the traffic in that Kapa'a corridor? Nothing. It has not helped the major problem, which is the traffic congestion in the corridor, and also a lot of these County roads now, I have noticed since the time when I was with the DOT (Department of Transportation), we went around and had to identify County roads from State roads, and they had a criteria that we followed. All of a sudden now since I retired, I started seeing that the County does not own those roads, why, because it was lacking in maintenance and the liability for the County increased. Those are the reasons why things like this are going on and the only way...and I do not think even the bus system can help because we need alternate roads to get in and out of Līhu'e town which was planned in the '50s. Because of the plantations, we could not get into reality. Kapule Highway took thirty-six (36) years from the day I started and the day I retired, thirty-six (36) years, think about it. The *mauka* alternative road never did get off the ground and now the County is talking about it, this was from 1975, I told them go back to 1950, that is when they had the route planned already. I can come

here and talk about paving. It is the lack of know how of doing the road themselves. I do not see County inspectors do the work that we did as State inspectors when it came to paving.

Council Vice Chair Kagawa: Joe, your time is up.

Mr. Rosa: I will come and say more. Thank you for this time, Ross.

Council Vice Chair Kagawa: You are welcome. You will be after Glenn.

Mr. Mickens: I will pick up where I left off. I hope Larry can answer some of these questions, I think these are good questions, and I hope you think the same thing. We desperately need all our roads to be center striped and restriped where the striping has worn off. Our unlighted roads and heavy rains make driving hazardous without good striping. The rationale for no striping is that a road has to be twenty (20) feet wide or more to get striped. For safety purposes, all roads regardless of width should be striped. Six, repaving our roads by HAPI standards will greatly increase their longevity as Larry and Ed have so wisely said. But in a Catch-22 situation, we get more usage but less miles paved with increased cost. We are on a fifteen (15) or twenty (20) year resurfacing schedule now and that is obviously way too long with the sorry shape our roads are in – the Puhi Road you are talking about is a joke. But this is not Larry's or Ed's problem, it is a problem for this Council to address since it takes more money for them to do their jobs. We need our representatives on O'ahu to fight for more funds and you Councilmembers have to carefully go over Ernie's roads audit, address his recommendations, and find a lot of wasted funds that can be used by Larry and Ed.

I have offered these thoughts many times before. They are met with silence from the Council. I can only conclude that the Council really does not care and is willing to let this corruption continue and lacks the political fortitude to take corrective action. As I return to my seat I will hope that I am wrong, but fear that I am not. Again, I just hope that...you folks probably have copies of this last 2011/2012 resurfacing list. I think Grace Pacific got the contact for it. How can this one page thing now...we had accumulated from not paving for three (3) years equal about eight point eight (8.8) million dollars? This thing shows the latest one, Larry just showed on the PowerPoint, something like three million dollars, what happened to the rest of the money? How can we come up with this thing here? Oloheua Road for crying out loud is a major artery, and it is not even on this list. Something has to be checked out. Someone has to find out what is going on here. I realize that money is one of the biggest problems that is going to solve these problems, but until somebody does the investigation, we should not just go ahead and rubber stamp these things. Thank you very much, Ross.

Council Vice Chair Kagawa: Thank you, Glenn.

Councilmember Yukimura: I have a question. Glenn, on your point one, is it not what Larry explained about the different classifications and how the roads are going to be treated, is that not an answer to your question number one?

Mr. Mickens: About the Micro Paving system?

Councilmember Yukimura: No, about how you are going to have different ways of treating roads, I think that is what your question is about, right? Some need sub base, some just need repaving, and they have come up with a system for classifying those roads.

Mr. Mickens: JoAnn, you cannot go back to these old roads unless you dig into it. You are going to have to drill core holes to find out what is underneath the paving. We have no record showing...

Councilmember Yukimura: But we are beginning to develop records and...

Mr. Mickens: New roads, JoAnn, we cannot go back...

Council Vice Chair Kagawa: You have to let each other finish.

Mr. Mickens: Okay, go ahead.

Council Vice Chair Kagawa: There has got to be a question and then an answer.

Councilmember Yukimura: This classification system, I think Larry has explained, is a broad brush right now with as much information as they have, but it is an information collection system, organizational system that is going to allow us to keep the history of our road repaving and is going to allow us to specify different kinds of treatment for different roads. That is from what I understand and you noticed that I am reading and understanding what you are asking, it is not that the Council is ignoring you, but it seems to me that you are ignoring what Larry is saying.

Council Vice Chair Kagawa: What was the question?

Councilmember Yukimura: Is the system that was just presented by Larry answering number one of Glenn's presentation?

Mr. Mickens: The number one system is basically talking about the MicroPaving system, okay. You are talking about going forward, I agree, going forward with any new roads, that system would work great, but in hindsight for the roads that have been paved fifteen to twenty (15-20) years ago, how are you going to put in that information?

Councilmember Yukimura: They have done a survey.

Mr. Mickens: To do what?

Council Vice Chair Kagawa: Okay, Glenn, we have to end that. When she asks you the question, you cannot ask a question back. It does not work like that.

Councilmember Yukimura: All I am asking is that you actually listen carefully to what Public Works is doing because they are listening to you. Thank you.

Council Vice Chair Kagawa: Thank you, Glenn. You folks need to hug.

Councilmember Yukimura: I agree. We will get it after the meeting.

Council Vice Chair Kagawa: All good debate. We are trying to get our roads repaved, but everybody has different opinions.

Mr. Rosa: I hear JoAnn talking about...JoAnn when it comes to roads and paving you have to have some knowledge of the darn thing. A lot of the County roads that were taken over occurred in the days of the old model

(inaudible), days when the cars were six (6) feet wide and the roads could be sixteen (16) feet wide. Today, the standard roads under the Federal standard is twenty-four (24) feet on Kaua'i twelve, twelve (12,12). The State then went into the highway system of upgrading, and had to widen the road that to twenty (20) feet wide. We had to take four feet (4'), four feet (4'), we dug it down to the regular eighteen inch base course with the finish two inch AC. To that, we had a solid ground because the additional twenty feet (20') would have been the old type penetration where they put large two and a half inch rock road compact and then they put a little fill road, rock/sand, and then they would put asphalt over the road. They did not have asphalt in the older days. Now, this is a different process. I do not think the County is doing that because I worked on two (2) County jobs and I have seen the job that they did on Rice Street. I was on a vacation and I saw the County inspectors just standing out in the shade, they are not collecting tickets, they are not checking the temperature, they are not doing a theoretically...on the tonnage of the truck how far it should go, all those things have to do with paving. I went to two (2) seminars in Honolulu to qualify to be an inspector. I do not know what is the criteria for inspectors to do their jobs. Basically, that is what causes all this failure, the lack of knowledge. A lot of the times what you trying to say, you just do not do it. They have what they have now, modern nuclear gauges that you can get a compaction to see how the compaction under the main portion of the highway is. It can give you an idea. Arnold Leong has that company, he does that. If you need it, do not go and buy an expensive tool, hire Arnold Leong for the projects that are coming up. Those are the things. I see so much waste, like as I said, because it seems like the inspectors have a lack of knowledge. What is the qualifications? In the State, we had to have a Masters license, we had to do all those things on the job. I do not see the County inspectors doing that. When they paved Rice Street, what did they do, I see them pushing the spreader uphill. You never pave uphill because the spreader will do a zigzag and you will get rumble on the highway, on the finish. Again, those are things due to lack of knowledge. How do they qualify?

Council Vice Chair Kagawa: Joe, your time is up.

Mr. Rosa: And then also this is something I noticed. The paving is done by priority, look who lives on the certain street and they will see why they paved it.

Council Vice Chair Kagawa: Question.

Councilmember Yukimura: I actually just want to thank you, Joe, for bringing up the importance of having well trained inspectors because it is literally where the rubber meets the road. Thank you.

Council Vice Chair Kagawa: Anybody else from the public wishing to speak on this?

The meeting was called back to order, and proceeded as follows:

Council Vice Chair Kagawa: Any discussion?

Councilmember Yukimura: I want to thank the Department of Public Works, Roads Division and Larry Dill for really moving us towards a much more professional way of assessing our road quality and the need for paving. We have made quantum leaps and I want to thank Glenn for raising that many years ago, but I also think we need to acknowledge the progress that has been made because there has been tremendous progress made in terms of an objective way of assessing roads and classifying them and ordering the repaving of them according to what the needs

are. There has been really good progress on that and I want to thank them for all the work that it took to get us here. I also want to say that this list is not something that the Council should try to tamper with, you know, likely because we have asked them to do a professional system and what do we know, unless we use a system of evaluation, it would be a political process. That is exactly what we are trying to avoid. Unless there is an egregious apparent error in the listing of those roads, we need to support it, and get it to the bid process to get these roads repaved well. I also want to say that it is very apparent by this list that we are not going to catch up in the way that we have to catch up in order to give cost effective services to the public in repaving roads. Those of us around this table need to look at that plan that has been presented and see how we can fund it appropriately because unless we do, we are going to get to Honolulu's situation where they for years, just neglected their roads and then have such a humungous bill to pay. We already have a big bill to pay, but that is why the sooner we address it in a methodical way with a good overall plan, the sooner we will be able to cut costs for the public.

Council Vice Chair Kagawa: I just want to point out that Tek Nickerson brought up a great point about looking for a new technology or methods that can address some of our roads issues without costing too much money. If you look at these costs, one point five (1.5) million for these local roads and it is not a lot of roads, it is point one, three (0.13), or point zero, four (0.04) miles, so that means that there is just a lot of spotting areas that we are going to be addressing. It is almost like we have some pothole issues that if we fix that, the road is basically okay. Surely repaving the whole thing would be better, of course, but when we are cash strapped, at least getting it so that we do not have those big holes that really do a lot of damage to the cars, at least it is a temporary fix. I appreciate that perspective because I kind of agree with that perspective. There are just some spotting issues in a lot of areas that basically the whole road does not need to be repaved per se right now. Again, I appreciate Larry's list, they are trying to address specific concerns. Some roads will only be seal coated, some will be reconstructed, so we have small and big jobs. We are trying to do it in that manner, but I am thinking outside the box. Maybe there are some new methods out there that can help solve this problem. We keep talking about this motor vehicle weight tax, so on May 14, 2014, the Council increased the motor vehicle weight tax a half cent for passenger vehicles and a half cent for larger vehicles, and that raised a total of one point one (1.1) million last year to the vehicle weight tax bills that the public had and they went crazy. Believe me, all of them were saying, "What happened to my car bill." This year, we wanted to raise it again. This time, we wanted to raise one point six (1.6) million more from the motor vehicle weight tax. The majority of us on the Council said, "Wait, we are already getting complaints from last year's bills and we are going to increase it again." Rich and poor, we all have cars. It is to me, more regressive than the GET because everybody has a car whether you are on welfare, whether you are rich, everybody has a car or multiple cars. You need the cars to go to work. I think there comes a time when the Council has to do their job and we have to say, "Hold off." We cannot just raise any type of tax or fee and put the blame on, "We have not resurfaced roads," because if the road resurfacing was a priority five (5) or six (6) years ago when we had fifty million dollars (\$50,000,000), we would not be a hundred million dollars (\$100,000,000) behind. I guess the County, Administration, and the Council's back then felt adding management positions, adding secretaries, maybe was more important. I do not know. I was not on this Council. Now, we deal with what we have here and our job is to decide what the people can afford and what I am telling Larry, the County, and the Public Works Department, the road resurfacing is a priority. It is just as important as Police, Fire, et cetera. Do not stop your list just because I did not approve of your bill. It is simple. I thought that two (2) years in a row was a little bit too much to ask from the public, because this one point one (1.1) million that we raised last year is not the one point one (1.1) million and it stops, it keeps going. This year

you folks are paying one point one (1.1) million more than you paid two (2) years ago. It keeps growing. If we add the one point six (1.6), you all will be paying two point seven (2.7) million more every year. It is kind of difficult for me to hear that we are not going to expand resurfacing because you folks do not want to tax the cars again. It is difficult. Larry, do not stop, please, tell Public Works to keep going with our road resurfacing list. If we have to use savings, we will use it because it is important, just as important as every other function that the County does. Thank you.

Councilmember Yukimura: I want to thank Council Vice Chair Kagawa for bringing up the fact that it is so costly to pave, even short segments of roads. The opportunity now though with the price of oil being lower is to pave now because asphalt prices are related to the price of oil. Hopefully, we will get good prices through the bid system if it is working properly and we need to do as much as we can now because we know oil prices will not stay where they are now. That is an opportunity. If road repaving is a priority, then we need to put our money where our mouth is. Obviously, the amount that we have right now is not enough. The question is where do we do it? I think we need to think about how much we would pay in vehicle weight taxes versus how much we would pay if we do not repave our roads. I think there was a figure that people pay, at least on O'ahu, seven hundred dollars (\$700) per year because of poor roads and that is a lot of money to pay a year. It actually will be in our best interest to pay a little bit more in taxes to fix our roads and we will actually be saving money.

Council Vice Chair Kagawa: Any more discussion, members? Seeing none.

The motion to approve C 2015-125 was then put, and carried by a 5:0:2 vote (Councilmember Hooser and Council Chair Rapozo were excused).

C 2015-126 Communication (04/10/2015) from the County Attorney, requesting authorization to expend additional funds up to \$135,525 for Special Counsel's final billing for services rendered for Defendant County of Kaua'i in Tim Bynum vs. County of Kaua'i, et al., Civil No. 12-00523 RLP (U.S. District Court), and related matters.

Council Vice Chair Kagawa: As Chairman, I would like to ask that members consider deferring this item today so that we can address this item, I believe that we have time to defer it for two (2) weeks, and I would like to have Councilmember Hooser and Council Chair Rapozo here so that we do not need to repeat ourselves again in two (2) weeks.

Councilmember Kualii: And this request is for all three (3) items?

Council Vice Chair Kagawa: Yes, all the Bynum settlements. Councilmember Hooser and Council Chair Rapozo were here the entire duration of our proceedings and they are both excused today. I would like to ask if members feel like you want to tackle it and maybe have the same discussion come up in two (2) weeks again, it is up to you, but I would prefer that we defer it today. We can have Mauna Kea explain if we have the time.

Councilmember Yukimura: I do not have any objections to a deferral, but I must say that I am planning to be excused from the next meeting in the afternoon because there will be a Department of Transportation solutions committee for traffic in Kapa'a/Wailua that I am hoping to attend.

Council Vice Chair Kagawa: Is that in two (2) weeks?

Councilmember Yukimura: Yes, I wish that it were not on that day.

Council Vice Chair Kagawa: What are the times?

Councilmember Yukimura: 1:00 p.m. – 4:00 p.m.

Council Vice Chair Kagawa: I think we could work around that schedule in the morning or...

Councilmember Yukimura: We also have the South Kaua'i Community Plan...no...Līhu'e Plan...

Council Vice Chair Kagawa: We will work it out so that you are here.

Councilmember Yukimura: Oh, that is still in Committee. Okay, thank you. I just wanted to give you that information. I do not mind a deferral. I agree that the two (2) absent members should be present, but I just wanted to let you know that I am planning to be gone in the afternoon.

C 2015-127 Communication (04/10/2015) from the County Attorney, requesting authorization to expend additional funds up to \$130,189 for Special Counsel's final billing for services rendered for Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. 12-00523 RLP (U.S. District Court), and related matters.

C 2015-128 Communication (04/10/2015) from the County Attorney, requesting authorization to expend additional funds up to \$56,480 for Special Counsel's final billing for services rendered for Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. 12-00523 RLP (U.S. District Court), and related matters.

Councilmember Kualī'i moved to defer C 2015-126, C 2015-127, and C 2015-128, seconded by Councilmember Chock.

Ms. Fountain-Tanigawa: Council Vice Chair Kagawa, we do have one (1) registered speaker, Joe Rosa.

Council Vice Chair Kagawa: Okay, can you remove the motions.

Councilmember Kualī'i withdrew the motion to defer C 2015-126, C 2015-127, and C 2015-128. Councilmember Chock withdrew the second.

Council Vice Chair Kagawa: Mr. Rosa, you want to speak on the Executive Session items. We will come back to it in two (2) weeks, if you wanted to wait.

There being no objections, the rules were suspended.

Mr. Rosa: Good morning. I am not quite sure on what I was going to say, but the thing is, it has to do with the Executive Session coming up on the request for the compensation from the County Attorney's Office or something.

Council Vice Chair Kagawa: Yes.

Mr. Rosa: Okay. It was something that could have been prevented by members of the Council at that time. What do you have a County Attorney for? It is to represent all County workers, and not only the elite County

workers. That is how I look at it. The people that were not compensated have to go get outside counsel and had to pay from their pocket. You know it yourself, Ross, because like you said they came to see you. That is why I am referring to you. Do not mind me. Those are the kinds of things that again, it shows that we have people that do not really know their job and do things like saying, "It is my interpretation, et cetera." Be sure, put the brain in gear before putting the mouth into action, then things like that would not happen. If anything, poor Mr. Ernie Pasion, he was one of those that fell in that category where he was not taken care of by the County Attorney. To be fair and square, everybody should be treated equally, and things like the compensation of hiring their own personal attorneys, it should not be where they have to come back to the Council to have their bills be settled and taken care of. I know Ernie Pasion's case was signed, sealed, and delivered, and nothing will be done after, on the settlement that he got, but I think to be fair and square for him to look into some sort of compensation with his attorney fees that he had to pay. I thank you for that.

Council Vice Chair Kagawa: Thank you, Joe. Any questions for Joe? Seeing none. Anybody else wishing to speak on this matter? Mauna Kea. Since you are coming up, can you let us know if these are time sensitive issues?

MAUNA KEA TRASK, County Attorney: I take no position on the deferral today. It is really not time sensitive. I just wanted to state for clarity on the record, one, this has nothing to do with the County Auditor's case at all. It does not involve Ernie Pasion. In this case, the last Executive Session held on this matter was I believe June 25, 2014. In Executive Session some matters were discussed, it has been some time since the last one so I wanted to update you on this. Also, the request is part of the motion to also defer the attached Executive Sessions to these matters that would be ES-788, ES-789, ES-790, and ES-791.

Council Vice Chair Kagawa: Thank you, Mauna Kea. Any questions for Mauna Kea? Seeing none.

The meeting was called back to order, and proceeded as follows:

ES-788 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing as it relates to Defendant County of Kaua'i in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-789 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing as it relates to Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-790 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing and request authority for settlement as it relates to Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges,

immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-791 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4) and (8), and Kaua'i County Charter Section 3.07(E), the purpose of this Executive Session is to provide the Council with a briefing as it relates to Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Upon motion duly made by Councilmember Kualii, seconded by Councilmember Chock, and unanimously carried, C 2015-126, C 2015-127, C 2015-128, ES-788, ES-789, ES-790, and ES-791 were deferred.

C 2015-129 Communication (04/14/2015) from the Deputy County Clerk, notifying the Council of an incorrectly posted agenda item (C 2015-40, January 14, 2015 Council Meeting) and subsequently requesting Council approval, on behalf of the Housing Agency for the following:

1. Fee simple acquisition from the owners of the residential unit situated at 3920 Haoa Street, #123, Lihu'e, for not more than \$197,950;
2. Fee simple resale of the residential unit situated at 3920 Haoa Street, #123, Lihu'e, for not more than \$197,950, to a participant who is on the County's Affordable Housing Program waitlist whose household income does not exceed 140% of the Kaua'i Median Household Income (KMHI); and
3. Authorize the County Clerk to sign legal documents related to the acquisition and resale transactions.

Councilmember Kualii moved to approve C 2015-129, seconded by Councilmember Chock.

Council Vice Chair Kagawa: Any discussion?

Councilmember Yukimura: I would like to request for the Housing Agency to be here. This is fee simple rather than leasehold and I would like to know why.

Council Vice Chair Kagawa: Is the Housing Agency on their way? Shall we move it to the end of the agenda? We will address it when they show up. Next item, please.

LEGAL DOCUMENT:

C 2015-130 Communication (04/03/2015) from the County Engineer, recommending Council approval of a Right-of-Entry Agreement between the County of Kaua'i and the State of Hawai'i, Agribusiness Development Corporation (ADC), for access in and to the Cane Haul Road located on property in Kekaha, Kaua'i, TMKs: (4) 1-2-002-001 (por.) and (4) 1-2-002-025 (por.), to conduct a survey of birds ("Bird Survey") in and around the Kekaha Landfill in connection with the environmental assessment for the construction and operation of a landfill in Kalepa, Kaua'i, TMK: (4) 03-009-002 (por.), and to indemnify the ADC

and the Kekaha Agriculture Association (KAA), who by license from the State of Hawai'i is responsible for operation and maintenance of those certain lands.

- Right-of-Entry Agreement

Councilmember Kualii moved to approve C 2015-130, seconded by Councilmember Yukimura.

Council Vice Chair Kagawa: Any questions for Larry? No. Seeing none. Anybody from the public wishing to speak on this matter? Seeing none.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2015-130 was then put, and carried by a vote of 5:0:2 (Councilmember Hooser and Council Chair Rapozo were excused).

CLAIMS:

C 2015-131 Communication (04/02/2015) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Enterprise Holding Inc., Damage Recovery Unit (DRU), for damage to their vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kualii moved to refer C 2015-131 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Yukimura, and carried by a vote of 5:0:2 (Councilmember Hooser and Council Chair Rapozo were excused).

C 2015-132 Communication (04/09/2015) from the Deputy County Clerk, transmitting a claim filed against the County of Kaua'i by Charlene Andrade, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Councilmember Kualii moved to refer C 2015-132 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Yukimura, and carried by a vote of 5:0:2 (Councilmember Hooser and Council Chair Rapozo were excused).

COMMITTEE REPORTS:

A report (No. CR-HT 2015-04) submitted by the Housing & Transportation Committee, recommending that the following be Approved on second and final reading:

"Bill No. 2580 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES,"

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kualii.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve CR-HT 2015-04 was then put and carried by a vote of 5:0:2 (Councilmember Hooser and Council Chair Rapozo were excused).

A report (No. CR-PL 2015-08) submitted by the Planning Committee, recommending that the following be Approved on seconded and final reading:

“Bill No. 2577 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-31-79, AND ORDINANCE NO. PM-2009-391 RELATING TO ZONING DESIGNATION IN PO‘IPU, KAUA‘I (*John Horwitz, Peter Baldwin, Matthew B. Guard, and George Robinson, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, Applicants*),”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kuali‘i.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve CR-PL 2015-08 was then put, and carried by a vote of 5:0:2 (Councilmember Hooser and Council Chair Rapozo were excused).

A report (No. CR-PL 2015-09) submitted by the Planning Committee, recommending that the following be Approved on seconded and final reading:

“Bill No. 2578 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-2001-354, RELATING TO ZONING DESIGNATION IN PO‘IPU, KAUA‘I (*John Horwitz, Peter Baldwin, Matthew B. Guard, and George Robinson, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, Applicants*),”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kuali‘i.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve CR-PL 2015-09 was then put, and carried by a vote of 5:0:2 (Councilmember Hooser and Council Chair Rapozo were excused).

A report (No. CR-BF 2015-16) submitted by the Budget & Finance Committee, recommending that the following be Received for the Record:

“BF 2015-01 Communication (03/12/2015) from the Director of Planning, transmitting for Council information, the Six-Year Capital Improvement Projects (CIP) Program Fiscal Year 2015/2016 - 2020/2021 Final Report, as recommended by the Planning Commission,”

Councilmember Yukimura moved for approval of the report, seconded by Councilmember Kuali‘i.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve CR-BF 2015-16 was then put, and carried by a vote of 5:0:2 (Councilmember Hooser and Council Chair Rapozo were excused).

RESOLUTIONS:

Resolution No. 2015-38 - RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE BOARD OF ETHICS (*Addison C. Bulosan*): Councilmember moved for adoption of Resolution No. 2015-38, seconded by Councilmember Kualii'i.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Vice Chair Kagawa: I would like to say that I was so impressed with Addison. He is a Chiropractor, young, and just hearing his voice, I think, I have a lot of confidence in that Ethics Commission. It is so important. I am just really glad that they chose Addison. I am very happy with that choice.

The motion for adoption of Resolution No. 2015-38 was then put, carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kualii'i,	
	Yukimura	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Vice Chair Kagawa: Can we go back to the Housing item, C 2015-129? The item has been read already.

KAMUELA COBB-ADAMS, Housing Director: Good morning.

STEVEN FRANCO, JR., Homebuyer Specialist: Good morning.

Councilmember Yukimura: Good morning. I just noticed that the sale is fee simple and I was just wondering, first of all, where the property is, and secondly, what is our policy with respect to when we transfer properties fee simple and when we transfer leaseholds?

Mr. Franco: This property is located at the Kamamalu condominium project, right near the Lihu'e Industrial area.

Councilmember Yukimura: Yes.

Mr. Franco: Which was a part of the Marriott workforce development. This particular project, the reason why we are not able to resell by leasehold is because lenders will not be able to provide financing in this particular condominium project on leasehold sales...recently approved the project for fee simple sales so that is why we are limited to selling it by fee simple.

Councilmember Yukimura: And is there a buy-back provision?

Mr. Franco:
restriction on the property.

Yes, there will be a twenty (20) year buy-back

Councilmember Yukimura:
determined by what?

And the twenty (20) year buy-back period is

Mr. Franco:
of the property...

From the date that the owner takes possession

Councilmember Yukimura:
why is it not thirty (30) years?

No, no, I know where you measure from, but

Mr. Franco:
the twenty (20) years based on the type of sale that we are doing.

Based on Ordinance No. 860, we are going with

Councilmember Yukimura:
period?

And do you think that is an adequate buy-back

Mr. Franco:
what lenders and Fannie Mae is accepting at this time. I am not sure if they would accept anything longer than twenty (20)...

To be honest with you, yes, only because that is

Councilmember Yukimura:

Have you asked?

Mr. Franco:

We have not asked at this time.

Councilmember Yukimura:

Could you ask?

Mr. Franco:
Yes, that can be done.

If they would do a longer period of buy-back?

Councilmember Yukimura:
this sale of thirty (30) years, or...

Would that still be able to be incorporated in

Mr. Franco:
Ordinance, the way it is written right now.

Probably, I mean we are basically following the

Councilmember Yukimura:
years?

And right now the Ordinance is twenty (20)

Mr. Franco:

Yes.

Councilmember Yukimura:
thirty (30) years is better, and we can get approval, then will Housing make a proposal to amend the Ordinance?

So if we think from a policy standpoint that the

Mr. Cobb-Adams:
right now.

No, we have no plan to amend the Ordinance

Councilmember Yukimura:
plans, but if we find out that a longer buy-back is possible, would it not be better housing policy to make it longer?

Yes, I understand that you did not have any

Mr. Cobb-Adams:
question to answer, "better," I mean we have a lot of different opinions and a lot of

It could be. I think it is going to be a hard

different factors to consider. That could take some time, but of course if there was something "better," we would recommend changing it.

Councilmember Yukimura: I would request a policy analysis to see what might be the better and also to see whether...what is it Fannie Mae?

Mr. Franco: Fannie Mae.

Councilmember Yukimura: If Fannie Mae would support it or allow it.

Mr. Franco: That is something that can be done.

Councilmember Yukimura: Thank you. We only had two (2) units that we salvaged because all twenty-five (25) units were supposed to be for workforce housing and Kaua'i Lagoons, and the Council which I was not on at that time, though I came to testify against the proposal, allowed the condos to go into the market as I understand.

Mr. Franco: Yes, the Housing Agency actually acquired three (3), or was given the opportunity per the agreement to purchase up to three (3) units and we did exercise our right to purchase those three (3) units. The Marriott or Kaua'i Lagoon, they basically satisfied every sales period that they were supposed to and at that point per the agreement we were required to let them sell, basically on the open market, because they met all their time periods that they were required to keep the units affordable.

Councilmember Yukimura: So in crafting these agreements we might next time look at different provisions that would allow or recognize the problem of the builder/owner because it was a very difficult time for them, as we all recall after the 2008 crash, but we had other options that might have allowed us to hold on to the property for longer. We thus loss, there were twenty-four (24) units originally, I believe, right?

Mr. Franco: There were a total of thirty-one (31) units and a total of, I believe, eighteen (18) were sold with deed restrictions meaning they were sold during the restricted sales period. The three (3) units that I mentioned that we previously purchased was part of that eighteen (18), so the rest of the units were sold basically on the open market with no restrictions.

Councilmember Yukimura: So actually there were twenty-one (21) that were sold according to our plan?

Mr. Franco: Eighteen (18) actually.

Councilmember Yukimura: And where did the three (3) come in that we kept, were they part of the eighteen (18)?

Mr. Franco: That is part of the eighteen (18).

Councilmember Yukimura: I see, okay. Those deed restricted units that were sold in accordance with our original vision, the restrictions are in the County's favor, we are responsible for enforcing them?

Mr. Franco: Yes, they are.

Councilmember Yukimura: And they are twenty (20) year...

Mr. Franco: Some units were sold...during a certain sales period, were sold with a ten (10) year buy-back restriction and then some of them were sold with a twenty (20) year buy-back restriction.

Councilmember Yukimura: Okay. And the ten (10) years are...we must be close to the ten (10) year period.

Mr. Franco: I believe that project was completed back in 2009 and that is when people started moving in there, so yes, 2019 would be when the ten (10) year restrictions would be up.

Councilmember Yukimura: Thank you. I appreciate your knowledge of this, Steve, thank you.

Mr. Franco: You are welcome.

Councilmember Yukimura: The other two (2) of the three (3) units we have, what are their status?

Mr. Franco: The three (3) units that we did acquire have all been resold already to participants on our affordable housing waitlist.

Councilmember Yukimura: And this is the last one or this is a resale?

Mr. Franco: This particular one that we are referencing is a buy-back. That was purchased during our restricted period.

Councilmember Yukimura: I see, okay, thank you very much.

Council Vice Chair Kagawa: Any more questions for Housing? If not, thank you, great job.

There being no objections, the rules were suspended to take public testimony.

FELICIA COWDEN: I want to really thank Councilmember Yukimura for asking some serious questions on that because when I look at our community, housing is one of the biggest issues. When people are able to get into these affordable programs, sometimes it can work as a stair step into getting it to market value for the first people who get the privilege of buying in. It works for them and many of them are my friends. What is more important than getting in at market value by the time you are forty (40) years old or something, is even just having a home. When I see how difficult it is for us to even acquire these houses to begin with and as much as it is wonderful for the people who are able to buy their way out of it, and then move forward at market value, it is the next generation that do not have a home to live in. When people are given ten (10) or twenty (20) years that they have housing that they can afford, it is a time for them to be saving and to be able to jump into market value and allow whomever takes over their home, their children or whatever has happened, that there is another layer that has the opportunity to do it. I do not know all the subtleties of this particular development, but I am pleased to hear that there is caution and that there is questioning. If we can extend loans for another ten (10) years and there is a way to keep housing available for people to live in, I applaud that and I hope that it is given serious consideration and not just a matter of passage to say yes. Thank you.

Council Vice Chair Kagawa: Thank you. Any questions for Felicia? Anybody else wishing to speak on this matter? Seeing none.

The meeting was called back to order, and proceeded as follows:

The motion to approve C 2015-129 was then put, and carried by a vote of 5:0:2 (Councilmember Hooser and Council Chair Rapozo were excused).

There being no objections, the meeting recessed at 10:50 a.m.

The meeting was called back to order at 10:59 a.m., and proceeded as follows:

Resolution No. 2015-39 - RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO FIRE COMMISSION (*Thomas M. Nizo*): Councilmember Chock moved for adoption of Resolution No. 2015-39, seconded by Councilmember Kualii'i.

Council Vice Chair Kagawa: Any discussion?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for adoption of Resolution No. 2015-39 was then put, carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kualii'i, Yukimura	TOTAL - 5*,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Hooser, Rapozo	TOTAL - 2,
RECUSED & NOT VOTING:	None	TOTAL - 0.

(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauai, Councilmember Yukimura was noted as silent (not present), but shall be recorded as an affirmative for the motion).

Resolution No. 2015-40 - RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO CIVIL SERVICE COMMISSION (*Jeffrey S. Iida*): Councilmember Kualii'i moved to defer Resolution No. 2015-40 pending interview, seconded by Councilmember Kaneshiro, and carried by a vote of 5*:0:2 (*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kauai, Councilmember Yukimura was noted as silent (not present), but shall be recorded as an affirmative for the motion) (Councilmember Hooser and Council Chair Rapozo were excused).

Resolution No. 2015-41 - RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO POLICE COMMISSION (*Gerald Bahouth*): Councilmember Chock moved for adoption of Resolution No. 2015-41, seconded by Councilmember Kualii'i.

Council Vice Chair Kagawa: Any discussion?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for adoption of Resolution No. 2015-41 was then put, carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro, Kuali'i, Yukimura	TOTAL – 5*,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Yukimura was noted as silent (not present), but shall be recorded as an affirmative for the motion).*

BILL FOR FIRST READING:

Proposed Draft Bill (No. 2587) – A BILL FOR AN ORDINANCE AMENDING CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO HOMESTAYS

Ms. Fountain-Tanigawa: The first registered speaker is Sam Lee.

Council Vice Chair Kagawa: Did we have a motion?

Ms. Fountain-Tanigawa: No motion.

Councilmember Kuali'i moved to approve Proposed Draft Bill (No. 2587) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 19, 2015, and that it thereafter be referred to the Planning Committee, seconded by Councilmember Kaneshiro.

Council Vice Chair Kagawa: As it passes through public hearing, when is the next Committee Meeting that it will show up on so that the public knows?

Ms. Fountain-Tanigawa: The public hearing on May 19, 2015 followed by the Committee Meeting on May 27, 2015.

Council Vice Chair Kagawa: The Committee Meeting will be on May 27, 2015.

(Councilmember Yukimura was noted as present.)

Council Vice Chair Kagawa: After 9:00 a.m. Public hearing again is on May 19, 2015 at 1:30 p.m., and the Committee Meeting that will follow will be on May 27, 2015 – if I can project and rub my crystal ball, I think this will take more than one (1) Committee Meeting. It is going to need some work. Mason, has the actual crystal ball. Mason, did you want to give some comments before they start testimony?

Councilmember Chock: One day, we will get it out of here.

Council Vice Chair Kagawa: Are you serious? Alright, we will have the first registered speaker. Sam Lee.

SAM LEE: I live on the south shore in an R-4 neighborhood. It is small, unpaved and has fifty-eight (58) properties. Half of which, actually twenty-seven (27) of the fifty-eight (58) properties are nonconforming TVRs (transient vacation rentals) allowed so by a Council action that dates back, I believe, to around 2008. Part of the reason why I am here is that through the South Kaua'i Community Development Plan there was a proposal which has not not been settled

as of this time to change the zoning of our neighborhood from R to VDA (visitor designation area), and that is a move that has been vehemently opposed by residents. On top of that I am now here to speak on the possibility that homestays might be allowed in residential neighborhoods. Having said that, I want the Council to understand that my comments are primarily, if not only, oriented to the ordinance as it might affect the residential. Considering what I just relayed to you, considering the history that we lived through recently, when this homestay ordinance first came up, we were definitely one hundred percent (100%) united in our opposition to having another commercial use put into our neighborhood or any other residential neighborhood. Since reading the second version and having the chance to talk to the Planning Department, we have modified our opposition to, "well, maybe." In some settings, under certain conditions perhaps homestays, or bed and breakfast (B&B) should be allowed, but I make a point again by saying that in some cases, in some settings, a limited number of B&B operations could be worked out with the residents. We are suggesting that in order for residents to be considered or protected, that the Council consider three (3) items to be added to the ordinance that do not currently appear. The first is that, it be clarified that the residents...

Council Vice Chair Kagawa: We will get the rest of your testimony after everybody is done.

Mr. Lee: Okay.

Council Vice Chair Kagawa: Next speaker.

Ms. Cowden: Thank you. I am concerned about Proposed Draft Bill (No. 2587) regarding homestays and I am separating them out from B&B. My concern is that it will result primarily on another three hundred plus (300+) families that are basically residents losing their homes. The County has said that they estimate three hundred and twenty (320) existing homestays and that there are no existing homestay permits, so this ordinance stipulates ten (10) applications, not permits, but ten (10) applications per year. If we presume that all ten (10) of these applications would be, "yes," and that is not likely, we are looking at ninety-seven percent (97%) of these homestays being closed. When I look at this ordinance, this is not a homestay ordinance, this is a homestay stopping ordinance. It is basically eliminating homestays. When this was at the Planning Commission, that vote had two (2) yes votes with reservations, and the Commission Chair was absent. I understand the resistance of homestays is the lack of local housing and neighborhood pressure, people not wanting the cars and everything right there, but the challenge is that homestays typically are the last resort for people to hold on to their homes. Very often these are people without extended families and most of them still have jobs. So, when you have people staying in your house, that is a very personal piece, people would not do that if they did not need to do that. My observation is that the overwhelming trend in the change of ownership from housing, it is not like it is a vacation rental – they stop the vacation rental and it again becomes a residential house, it becomes an absent home. We do not bring housing back into the general population. We take it out when we sell it, not always, but mostly. It trends in that direction. I feel that it is very important to amend this really early so that we are not looking at ten (10) applications, to me, that is almost an insult to my time. Thus saying, we do not want it. Ten (10) applications is so trivial that it is hardly worth even having it here.

Council Vice Chair Kagawa: Question from Councilmember Chock.

Councilmember Chock: Thank you for the testimony, Felicia. How many do you think is feasible or we should be looking at?

Ms. Cowden: What I think is feasible is for people who have been doing this, to look at it in a grandfathered way, and look at that position, and if there are any complaints. If there are no direct complaints about it, I would say also if it is one or two rooms, if it is mainly the whole house and the person does not even live there, there are some that have been doing it quietly for fifteen (15) years and it has worked fine. I think it is okay to grandfather them out...I am not privy to how large that number is, but I would look at a grandfathered level and check on that. I would think that you would need to look into this place, and all the people that are in the discussion.

Councilmember Yukimura: Thank you, Felicia, for being here, and for your testimony. Can you explain, "absent home." You mentioned that in your testimony and I am not sure I understand.

Ms. Cowden: Absent home – I will speak from my experience of having been a Hanalei resident for a very long time. At one point, it was a thriving neighborhood of people who lived there and then without going into what pulled the economy away as we had a shift in the economy, it turned into vacation rentals or densely crowded houses. Then as the vacation rentals get sold out to whoever buys it, they do not actually live there. Pieces sell for five million, they do not need to vacation rent them, so they do not even provide rooms and jobs. Homestays typically are not in those real super prime areas like that, but an absent house is one that sits there vacant all the time – it is somebody's fifth (5th) house.

Councilmember Yukimura: I see. So you are talking really about second, third homes.

Ms. Cowden: Second, third homes...being empty most of the time.

Councilmember Yukimura: Right, that people come and stay whenever...

Ms. Cowden: Three weeks out of a year, six weeks out of a year...I have moved to Kilauea and towards the ocean from me is a ghost town. People do not live in those houses.

Councilmember Yukimura: Interesting. Okay, thank you.

Council Vice Chair Kagawa: When people do businesses in residential neighborhoods, one of the questions that Planning asked is do the neighbors in the area have a problem with the businesses in that neighborhood, silk screening, or t-shirt business, or what have you. Where there is constant traffic coming in, like a store, I understand that one of the criteria would be that, but in a case like Hanalei, I would think that asking the neighbors is not a good way to see whether they are okay with the homestay because they are all TVRs or homestays themselves.

Ms. Cowden: That would be fair.

Council Vice Chair Kagawa: So, what would be another way to justify whether it would be good to allow...another alternative to asking neighbors...

Ms. Cowden: I was thinking that if you look at the history and that there was already existing problems...like the person who testified before me, I have been in many, many meetings where I hear the distress of that street.

There is a lot of distress on that street. There are existing problems. I would look at it that way.

Council Vice Chair Kagawa: Thank you. Anymore questions? If not, next speaker please.

Mr. Nickerson: Good morning. I have three (3) concerns about homestays. I do not understand why this is required or why this is good for the community. What I see as good for the community are homestays. I do not see that it is good for the community or for the Council to regulate it or to have permits, or to collect money on it – I just do not see it at all. I will give you three (3) examples, I came here ten (10) years ago and I found families living on...or about to live on the beach. I rose to the occasion and I invited them to come to my home, pitch their tent, use my kitchen, use my home, laundry, et cetera. Family of five (5), I did it twice. They did not pay me anything. I did it out of compassion and if there is anything about *aloha*, it is about compassion. The second thing is an emergency bridge between rental homes or house or pet sitting. I have friends who house sit, if they can, pet sit if they can. They are in between homes, and they need a bridge. Where are they going to go? They can come to my house, if you let them. Well, you know they will come...my landlord allows me to have guests up to three (3) weeks. Now, if a fellow or woman is coming for three (3) weeks and they are going to use my facilities, utilities, kitchen, and everything that goes into it, it costs money. I am not in a position to pay for that. I need to be reimbursed for that and I do not want to cut the County into that. That is not in the interest of the County nor the community. The third position, I have friends coming for several weeks from the mainland. Some of these friends are here on business or they are on vacation. They are music teachers, other types of teachers, or maybe they are coming for a retreat or workshop. The average cost is two hundred eight (\$208) dollars and that is too much for many people. These are the three (3) reasons why I believe that we should be promoting homestays without permits and without fees. Thank you very much.

Councilmember Yukimura: Hi Tek. Thank you for testifying and for giving us those three (3) examples. I think they can be distinguished from homestays which are ongoing businesses. These are once in a while cases, there are more informal agreements, you would not need an excise tax for this if they are in fact reimbursements or helping to pay. I do not think they would be regulated under a homestay situation.

Mr. Nickerson: I beg your pardon, if you take a look at the text of the language it says, "if someone is going to be compensated for putting this up, it is going to be regulated."

Councilmember Yukimura: That is why the bill is before us because we are looking at the language and how we can actually develop a bill.

Mr. Nickerson: Yes.

Councilmember Yukimura: Thank you very much.

NICKI PIGNOLI: Good morning Council. I am a fourteen plus (14+) year resident of Kilauea. I own and have operated a small B&B in my home for the past fourteen (14) years, pay all my taxes, GET (general excise tax), TAT (transient accommodations tax), as well as the increased property taxes for commercial use of my home. The property was used as a B&B with the two previous owners before me. So we are talking twenty plus (20+) years with a B&B operation, one bedroom usually, sometimes two, out of a five (5) bedroom home. I received the

infamous cease and desist letter from the County Planning Department. I was one of fifty that had received this, it could be a little more, out of three hundred twenty (320) current B&B owners. That happened in February, so this process is working its way up. I am applying for a use permit and we will see how that transpires. What I wanted to speak to today is having gone to the Planning Commission meeting the other day, listening to the first reading of this proposed bill and hearing the inequality of this particular bill as it is presented as to how the TVR problem was handled. TVRs, and I do not know the number, so I do not know how many they are dealing with which are not...as they are defined, are non-resident homeowners who are renting their property after vacation rentals and most of them taking that rental proceed money back to the mainland to their place of residence to spend it. We are three hundred twenty (320) people who are renting a portion of our homes here and who are keeping that money on Kaua'i. We are not going anyplace else with it, so it is money that stays on Kaua'i. In addition to that they were grandfathered, TVRs were automatically grandfathered, if they had been paying their taxes, they were grandfathered, and allowed to see how the process played out. They were not given the cease and desist notices, were not told that they were going to be paying ten thousand dollars (\$10,000) or looking at ten thousand dollars (\$10,000) a day fines if we continued to advertise. My little case, it is like four (4) months so far, still counting, I cannot advertise, I do not know if I will get a permit, so I do not know what the summer is going to look like. The County is losing taxes from me, it will be ten thousand dollars (\$10,000) a year, total, in taxes, between GET taxes, and property taxes, not coming to the County, multiply that by three hundred (300) people, you are talking three million dollars to five million dollars (\$3,000,000 - \$5,000,000) loss of County revenue. These are small businesses, in my case, operating so quietly that my neighbors did not even know that I was in operation. All of my neighbors have written letters of approval, as well as the Neighborhood Association of Kilauea, which is not an easy task to get Kilauea to agree to anything. Just on behalf of those of us who are trying to do the right thing, we ask for a streamlined process that does not involve having to get an attorney. Can I just finish up in two seconds?

Council Vice Chair Kagawa: Go ahead.

Ms. Pignoli: ...and also this cap, artificial cap of ten (10) be totally disregarded and that the entire group be considered as a whole, grandfathered if possible. Thank you.

Councilmember Kaneshiro: Thank you for testifying and I know we received written testimony from you also. I just wanted to say that I like that you put the numbers together as far as GET and real property taxes, but as far as the County is concerned, the only tax we get is real property taxes. GET goes to the State, and TAT goes to the State. If you send testimony again, can you refine the number for us that...

Ms. Pignoli: Do you not get a portion of the GET or TAT sent back? There is a portion, I understand, that comes back to the County.

Councilmember Kaneshiro: We get a portion of the TAT, but it stays flat and it is set. We can get a hundred (100) more homestays paying TAT and it does not change the amount of TAT we get, but real property tax comes directly to us. So, if you wanted to refine your testimony and just put the real property tax section, that would be a lot more relevant for us.

Council Vice Chair Kagawa: Thank you. Anymore questions for Nicki? Next speaker.

EDDIE HENRY: Good morning. I am a homestay owner in Moloa'a, not by the beach, but up in the mountains. I bought the property in 2006 specifically to develop a B&B, retiring from twenty-five (25) years or more with banking. We are caught up in this thing which is really a critical mass. Through this process being developed for a use permit and as I say being developed as there is not one right now and has not been a process established since they differentiated back in 2005 between a TVR and a homestay. There is so much confusion among the public, even in the testimony with Felicia, this conversation that continually goes back melting together TVRs and homestays and they are completely different animals. It is like apples and oranges. TVRs are non-owner occupied properties and they are treated as such and it was decided that homestays would be dealt with later. Homestays are owner-occupied properties. It is still in the developmental stages, however, as we all know, homestay owners as of recent have been criminalized both in the media and by the Planning Department enforcement, given cease and desist orders. My group of people, my community of homestay owners, all of us are really...we are all retired, senior citizens, and we contribute to taxes. Myself, personally, I am on agricultural land, and I pay the highest use tax which brings up the other issue, the Real Property Tax Office and the Planning Department have two different rules. We are being taxed on use, not on zoning, so there is always a conflict in the problem where this is arising too. What I would like to see is the cease and desist orders lifted. Personally, I have not received one, and I am in the process of getting the use permit. Thank goodness the Planning Department does not have a mid-point counseling department to get that application in, but this is the first time that this is coming around. This is the first time they are developing a use permit, however, there has already been prosecution, jury, and judge on this, and I ask that we not be in fear of the next wave of cease and desist orders. I ask that the ones that were already presented, that they be lifted until this is done legally and in the right way.

Council Vice Chair Kagawa: Thank you. Is that Ellie?

Ms. Henry: Eddie.

Council Vice Chair Kagawa: Eddie?

Ms. Henry: Yes.

Council Vice Chair Kagawa: Any questions for Eddie? Thank you for your testimony.

LEE MOREY: Aloha. I am here actually representing the Government Affairs Committee (GAC) for the Kaua'i Board of Realtors. Today I am here just to ask you to stop this Bill now and reconsider the entire process. The TVRs were given much more consideration and the time and energy that was put into that, this does not affect even the same group of people. I think you need to look at the bigger picture and in the long run, the Airbnb issue. That is a much greater issue that is going to plague this island versus a homestay. I sent you all an article that was in Aljazeera about New York City and it is happening there. All those people that were doing TVRs, a lot of the people, and the homestay people will all go underground. They will all go Airbnb and then we really will have a nightmare. My hope is that you can see the diversity in the testimony from just the people that came before me and everything that was said from everyone is true. We need to really look at this in a long-term, bigger picture, and to do something today would be not productive. I personally believe that you do need to stop the cease and desist and raise that with everyone and then cooperate with the owner-occupants of these homestays. Do something productive for the County, something that would get the

County more tax money, or just make it a better home business, rather than try to just cut everybody off at the knees; the people that need income. I know that you need to set standards, I believe in that, and we are hoping that that will happen, but I think the legislation that we have today needs to be looked at again and addressed in a more long-term basis. Thank you.

Council Vice Chair Kagawa: Councilmember Yukimura has a question.

Councilmember Yukimura: Hi Lee. Thank you for being here. How do you define Airbnb?

Ms. Morey: An Airbnb is when the owner can be present or not be present, and it actually is a computer program where a person looks for a place to stay that is priced below hotel market and they are allowed to stay there any number of nights depending on what that particular owner allows. The owner pays the person who runs that program a fee, because there are more than one Airbnb program, the fee is paid directly to Airbnb, and it is then sent back to the owner. It is interesting to me because I hear people say to me, "I cannot do my TVR anymore, so I am going to do Airbnb." It is counterproductive and to not cooperate and work with the homestay owners and keep the money on Kaua'i and keep the cleaners employed and give the extra income to the individuals that are running nice, clean homestays, is wrong because you are going to have the problem anyway and it is going to be bigger.

Councilmember Yukimura: One way to distinguish the Airbnb from a homestay is what, I think Eddie suggested, that it be owner-occupied property.

Ms. Morey: Yes, and even in New York that is how they distinguished it. If it is owner-occupied it is okay, if it is not owner-occupied, it is not okay.

Councilmember Yukimura: And we recognized that when we were working on the TVR bill that it is a different animal because you have somebody who you can go to if the guests are noisy, if the parking is wrong, if...whatever...police can talk to somebody, et cetera. That is a very major distinction in my mind. That would be one of the ways in the law that we would distinguish between the two, so I am sorry I did not get to fully read your article, but we do have it.

Ms. Morey: Oh good.

Councilmember Yukimura: Are they outlawing it in New York?

Ms. Morey: It is illegal. They are at their wits end in how to enforce it. Enforcement is huge. When you have an owner-occupant that is taking care of visitors, it is usually not loud, it is people who want to experience Kaua'i and be a part of Kaua'i, and they want to be able to interact with people that live on Kaua'i, so it is a whole different level even than a TVR.

Councilmember Yukimura: Right.

Ms. Morey: To just cut them off at the knees, I personally believe is wrong, we need to look at this and look at the bigger picture because the evolution of this is Airbnb. I am not saying it is a problem now although I could rattle off about fifty (50) of them right now, and people who leave the island on vacation will Airbnb their homes while they are gone. I am not even judging any of that, I am just

saying that you have a small business, it is a legitimate business that allows people additional income here, you need to respect that.

Councilmember Yukimura: In a way...

Ms. Morey: And make it easy for it to be legal. Do not make it impossible because that is what you do, you make it impossible for it to be legal, then it becomes too difficult and even now you are taxing all the TVRs out of existence. Well, that is one way of getting them out, but I am not sure that is right either.

Council Vice Chair Kagawa: Okay, I think we are getting into deeper than just asking the question.

Ms. Morey: Okay.

Council Vice Chair Kagawa: We have another question.

Councilmember Kualii'i: I too wanted to thank you for the article. I did read the article and it was very interesting. It does sound a lot like Uber where all these people are using their personal cars and competing with taxis. I think in America competition is good as far as bringing prices down to the customers, however it did say too that seventy-two percent (72%) of the Airbnbs in New York City are illegal.

Ms. Morey: Right.

Councilmember Kualii'i: Clearly, it is an enforcement issue, but if people choose to break the law, then government has a responsibility to enforce the law. To say that something could end up being worse, that should not preclude us from doing what is correct now, do you not agree?

Ms. Morey: I do agree. My point is that what you are doing today with ten (10) units is not correct. In my humble opinion. I just want you to look at the bigger picture.

Councilmember Kualii'i: You said too that it needs to be made easy to be legal. Do you have a list of things that proves your point that it is making it too difficult to be legal? That you cannot comply with?

Ms. Morey: No, I just know the agonizing way that individuals...I do not have a homestay, and I am not associated with anyone that does. All I am here today is to ask you to please not exercise the threats of this cease and desist, give the people that are doing homestays the opportunity to become legal, and not just cut them off at the knees, but to relook at what you are doing and do it in a more compassionate manner. In a manner that is not going to affect their income so much. That is all I am asking. I just think there is a bigger picture to be seen and that they are not being treated fairly or as compassionately as the TVR people.

Council Vice Chair Kagawa: Anymore questions for Lee? Seeing none. If anybody else would like to speak on this issue, please sign up, it will make it a little easier because there are people who want to go for a second round.

MATTHEW BERNABE: I would like to say that I am in support of a process to make this legal and to extract what possible resources as a County, we can and make it legitimate as a revenue source. What I will say is this, when these people

in the past talk about, "It does not affect their community," I want to slightly disagree on one aspect. If I live in the Houselots and under the current mass appraisal method of valuation that we are using, they go up, right, my value will go up therefore, my tax will go up. I am in support of them getting their own category so that even if you folks choose to let them reside, I see them better off on agricultural lands. The reason I say this is that the County's own language of agritourism which was created to allow things like KipuKai Ranch for them to use quads and these ziplines as active agricultural activities, but putting forty (40) of them in the Houselots and turning into Hanalei, that would freak me out. We have only get one way in and out, and we do have TVRs in the Houselots, right by the Houselots park. I have seen it. Tourists are there. They go to the Sleeping Giant also. There has to be a distinction on the tax rate that I am not clustered in with these people. As far as the agricultural lots, some of these north shore agricultural lots, were created before. The County's own allowed these mega-mansions to be built on agricultural lots. To a degree, some of them have to put their own wells in because the Water Department would not give them water. They knew it was not even right when it was developed. It makes more sense to allow them to offset their inflated rate that they paid for that piece of property, granted they may have a nice mansion, but still, somebody down the line had to allow this at the County level. Only now we are coming up with this enforcement rule. The other thing that I wanted to say is that I personally have made money for my business, in which I have a tax license, and I have sent my daughter to more than two (2) to three (3) tournaments in O'ahu where she brought home the gold for Kaua'i. I sent my teenager to Washington D.C., all by weed whacking some of these places, and so it does trickle down to the people, but we have to have a comprehensive system.

Council Vice Chair Kagawa: Thank you, Matt. Any questions for Matt?
Seeing none.

BRUCE FEHRING: Hello, Members of the Council, thank you for hearing me. I am here on behalf of my wife, myself, and family. I am a full-time farmer. I have been a full-time farmer for seven (7) years. I supplement my income using a homestay. As a farmer who serves the community and provides food for the people who live here and the guests who come here, I think of my occupation as my livelihood. I would love to continue to do it. Without the supplemental income available to us, that would be very difficult to do, to continue on. I applaud the Planning Department for coming up with a very precise definition of what a homestay is, where owners are in the residence along with the guests and where they have a personal tax exemption for a homeowner. I have a real serious concern about how and why we should possibly limit applications to ten (10) per year. That is paramount to saying we are basically going to pass a law, but we are really not going to have any substance because the County, themselves, the Planning Department has identified up to three hundred and twenty (320) of interest if even half of those are B&B or homestays, that would mean that someone might be on the waitlist for sixteen (16) years to do something that they are either already engaged in or like to engage in, in the future. I do not think that is appropriate. I am not sure if the Bill came to you with all the exhibits that I saw when I saw the Bill, but further than what I have spoken about, I have a concern about the fact that the Planning Department has made it very clear on what their position is, that they would recommend against approval of any applications on agriculture or open lands. I do not understand why. I do not understand the rationalization or reasoning for that. It would seem that certainly if it supports a farmer, that is a good thing. Certainly if it is on land where they are not close to neighbors, then the accommodation is very unlikely to affect anyone else because they are really not that nearby. I just question the wisdom of why should that be prohibited. I also have a concern about the need to have paved parking. I do not have paved parking, I am a farmer, I have gravel parking like most

people on open and agricultural lands, and environmentally it is far worse to have paved parking than it is to have gravel parking. I do not understand that. I am a little bit concerned about the census designated areas because in an area like our own where I am outside of town...

Council Vice Chair Kagawa: Bruce, your time is up. If you want to say more, you can come back after everyone has spoken. Questions?

Councilmember Yukimura: Hello, Bruce. Thank you for coming. This Bill has just come to the Council and we have been dealing with the budget and with the legislature so we are only beginning to look at this. We have not even had a briefing from the Planning Department, but I believe there is a law in the State statute saying, "No overnight accommodations on agricultural lands;" are you aware of that?

Mr. Fehring: There are so many interesting laws and conflicts and language in both the State and County documents that I do not know which way to turn. Your County approved TVRs on agricultural land. There are lots and lots of them; does that mean that you broke the State law when you did that? It is kind of up for discussion and we were promised, as you know in writing, in the TVR law that B&B and homestays were not applicable to those.

Councilmember Yukimura: That is right.

Mr. Fehring: And that they would be handled in separate legislation at a separate time.

Council Vice Chair Kagawa: Thank you.

Councilmember Yukimura: This is the time. The other question is, I think it is an issue for agricultural land; what is your definition of supplemental income?

Mr. Fehring: In my case, supplemental income is any income I can make above and beyond what I sell my produce for and can help pay the mortgage, pay the bills, and keep me afloat.

Councilmember Yukimura: I have heard about your wonderful pineapples, I think it is, that you are growing.

Mr. Fehring: Thank you.

Councilmember Yukimura: I guess there are many scenarios, but in one scenario the supplemental tail could wag the agricultural dog if people get so much income from their overnight accommodations and they plant a few papaya trees and they say, "I am farming and I can have this." That is going to be one of the policy issues that we are going to be grappling with and if you have any suggestions about how to deal with it I think we would be interested.

Mr. Fehring: I do not want to waste your time right now, but I would be glad to send a testimony in that regard.

Council Vice Chair Kagawa: You can come back for another three (3) minutes if you think about how you could answer that.

Councilmember Yukimura: But this is as what the Chair said, just the beginning of our deliberations. I want to welcome everyone and people listening or watching to provide input on this issue as we deal with it. Thank you.

Council Vice Chair Kagawa: You walked in a little after I gave my opening statement, I said that if I rub my crystal ball it would tell me that it is going to be a long process because I do not see an easy solution in the near future. That is what my crystal ball told me.

Mr. Fehring: Okay.

Council Vice Chair Kagawa: Next speaker please.

CAREN DIAMOND: Aloha Councilmembers. I support this Bill that is before you today. It is actually an abbreviated version of the B&B ordinance that Planning was going to submit. One of the reasons that I think you should support this is so that we do not have three hundred twenty (320) people come into the Planning Department and overwhelm them without the proper support that they read have. I think this was kind of the first step and as an alternative to that, I would ask you to do a complete moratorium, just a temporary one until the regulations are worked out. If we go back in history to the TVR problems, if we had done that, more than half of the TVRs that ended up being approved would not have gotten approved because during that process is when everybody started to come in. Neighborhoods like Hanalei and Hā'ena are ridiculously impacted by way too many vacation rentals that have come in. We could not handle anymore resort uses and I think there are other neighborhoods that are following behind, where safety is compromised, everything is compromised. The residential neighborhood is compromised and when happens what you throw zoning out, and actually use that, people want comes before what the zoning is. Generally, I always thought zoning comes first and then uses are supposed to follow that. In 2004, a way long time ago when we were dealing with B&Bs and the County hired a consultant to write a report, that report said no more visitor units outside of the VDA (visitor designation area); no more B&Bs, TVRs outside the VDA. That was put aside and everybody was grandfathered in and the reason why TVRs were dealt with first was because B&Bs always needed a use permit, so that while the vacation rental issue was kind of gray and people were not sure what they needed, it was clear that B&Bs needed a use permit. While everybody's story is individually set on that basis, the bigger question is planning and zoning and with the amount of visitors coming here nowadays, if all of them were to stay in residential areas or if we did not have the respect to zoning, what would happen and where would people live? I think you have to look at this in a broad picture if you want to approve more B&Bs, the TVR uses have to go down in neighborhoods, but if we are going to take a long time to have this discussion then you might want to quickly pass this Bill that is before you right now. Thank you.

Council Vice Chair Kagawa: Any questions for Caren? Seeing none, anymore registered speakers?

Ms. Fountain-Tanigawa: Vice Chair, that was the last registered speaker.

Council Vice Chair Kagawa: Is there anybody else that would like to come up for the first time? If not, we will try to stick to the first round order. Sam, followed by whomever was after Sam, followed by whomever was after that person. As best as we can, if not, just come up. Thank you.

Mr. Lee: Continuing with where I left off. Residents would like the point of a use permit being required as the vehicle to process applications to be a Class IV zoning permit. There are various classes of use permits. Class IV is the one we expect that will be put into place. This requires neighborhood

notification, allows neighbors to participate to object, and requires also a public hearing. Most important is item number two, and that is that we hope this Council will establish and enforce a limit on the number of homestay permits issued on this island. The industry has been unable to self-regulate suggesting that a limit of this kind is imperative. How the limits should be set has been discussed over many years, in fact, the study that Ms. Diamond referred to had many pages on that particular subject. In a report from the Planning Department to this Council back in 2006, it was recommended amongst the conditions to be considered for setting limits that standards and procedures be developed scaled to size and potential impact of the use. Another suggestion is that permitting processes should consider the cumulative impact that a large concentration of alternative visitor units can have on a residential neighborhood. As far as I can see, this has not been done. The last point is to strengthen and clarify the ordinance by adding back the original language that was deleted and that includes especially for small lot neighborhoods like where I live, to clarify that there is a need for paved off and separate street parking, the septic is required, and that there be a mandatory random inspection at permit renewal and not leave it up to chance. Thank you.

Councilmember Kualii:

Next speaker.

Ms. Cowden:

Thank you. I am just going to add to my earlier testimony from a slightly different perspective. I want to say that everybody is bringing up really good points and I want to affirm much of what Caren Diamond testified on in terms of how we saw the vacation industry remove the houses, although stopping them does not bring them into residential use, or remove the houses from residential use. Just as some taxes are regressive, some policies and ordinances reflect a generational or demographic bias. What I understand is a big concern with having these homestays is that it crowds the neighborhoods and it changes who can reside and how. What happens to families who are lucky enough to have large extended families, we see in very small lots two, three, sometimes even four primary families; a generation of *hui*, crowded into the same house. When people are not lucky enough to have these big extended families, those people tend to get simply removed from the housing market if they cannot do something else. I will tell you in the last probably month to six (6) weeks I have had five (5) different people really try hard to get me to let them live in my garage. I feel terrible because they are all really good people. I have that constantly. Then, I am violating a rule or I am crowding my own children out, and then there is the crowding with the cars and everything out there. This is what does happen. I live in Kilauea, if you walk in one direction, and I am not complaining in the least, the generational families there, there are three or four primary families to a house and you can see seven or eight cars out in front of their houses. As I say, you walk the other way, nobody is even in those houses and there are big, huge, and expensive pieces of property that sit empty. Somewhere there needs to be the balance and as we are hearing this is not an easy conversation, how do we find it, I just worry that those ten (10) applications are sledgehammers. When we do something like a full moratorium, that is saying, "Alright, we are going to get rid of..." I am making a guess, I do not know, but the vast majority of the three hundred (300) houses that are already in that. So, it is not an easy task, you have to find out how do we not throw everybody out of their homes, not allow it to grow because like Caren said, all of a sudden you are going to have a big burst of this happening. It is very important. I am nervous about it because I want people in houses and I honestly do not want them in mine. I love you, if you are listening, and you are one of those who asked.

Council Vice Chair Kagawa:
you for your testimony. Next.

Thank you. Any questions for Felicia. Thank

Ms. Henry: Again on homestays and to add more about agricultural land, which I am on agricultural land. So the County allows CPR (condominium property regime) in the Moloa'a area, so my home, my residence is a single-family residence, one unit in a two unit CPR. I am on one acre of agriculture land. I think part of the problem is that we have this agriculture land zoning which is been allowed to turn residential. It is not the topography, the soil is not performing. Certainly, not for agriculture which is really a commercial zoning, like Grove Farm, we are really rural, and I think we need a zoning that says we are in a rural residential sense since that is what you have allowed. For example, around the corner from me, thank goodness Zuckerberg bought the whole property, but when he bought it, it was already allowed the parcels divided into CPRs for eighty-eight (88) homes. It is around the corner from me. You folks allowed eighty-eight (88) homes on agricultural land, but you do not want me to have a B&B on agricultural land. I am on one-acre, on top of a hill with the forest surrounding me, Moloa'a Valley, it is not for farming. At best, it is for a B&B. Globally B&Bs have existed since the beginning of time, remember Mary was looking to have Jesus and she probably had to go to an agricultural shed, right. There was no room at the inn. This has been going on since the beginning of time and it is so perplexing at least to say, "No B&Bs on agricultural land." I do not know what it is that you want me to grow, and it is so contradictory. Like I said, you have big development around the corner from me on agricultural land. Thank you.

Council Vice Chair Kagawa: Any questions for Eddie? That was a great testimony. Next speaker please.

Ms. Pignoli: Just a couple points that I want to make again. I really applaud the County Council for having to deal with this issue. It is complex and those of us who are running B&Bs really want it to be done, we want it to be done right, we would like you not to just throw something out there just to get it off the table. In the meantime, I really respectfully beg and plead that you consider a moratorium on the closing and the shutdown of the B&Bs that are currently operating. We will be paying our taxes while we work our way through this process. That, I think is really imperative in terms of keeping us alive while we are going through this process. It seems like it is going to take six to nine (6-9) months even if it is all going good at this point in time. The other thing is, right now, it is going to cost me eleven hundred dollars (\$11,000) just to permit my B&B. If three hundred and twenty (320) of us need a permit, that is three hundred and fifty (350) plus thousand dollars. Certainly, County Planning could add a few more staff and handle a lot more than ten (10) permits with that three hundred fifty thousand dollars (\$350,000).

Council Vice Chair Kagawa: I have a question. Eleven thousand dollars (\$11,000)?

Ms. Pignoli: Eleven hundred dollars (\$1,100).

Council Vice Chair Kagawa: Eleven hundred dollars (\$1,100) for...

Ms. Pignoli: I think it is three hundred dollars (\$300) for the use permit and eight hundred dollars (\$800) for the zoning, the Class IV zoning permit. That is not to mention the attorney's fees that was suggested by County Planning that we have attorney's representing us while we go through this process.

Council Vice Chair Kagawa: And that will be a lot of money also.

Ms. Pignoli: Yes.

Council Vice Chair Kagawa: Questions for Nicki? If not, next speaker.

Mr. Bernabe: I would like to address Councilmember Yukimura. Are you aware that the Planning Department is taking the position that they sent these cease and desist orders by pressure via you folks being the County Council?

Council Vice Chair Kagawa: Matt, you cannot ask the question, but she...

Mr. Bernabe: I am sorry. Thanks for the clarification. But that is the position they took at the meeting that I listened to. You acted earlier as if you were not sure on that, and I just wanted to make sure. I think we need to make it more efficient because when I was at that meeting, their response to the public which I was the only non-B&B owner, the room was full of people that had probably really good lawyers, and the response to the cease and desist orders were, get your attorney and appeal it. I am thinking to myself, this guy's history is not good enough where they want to end up in court. I do not think the County would win if anyone decided to press the issue legally. I wanted to agree with Mr. Lee earlier that if it does go into a residential area, the things that he said, you know I do not like them in a residential area unless they are specifically gaged were I do not get taxed higher. The other issues that he brought up was good: septic, the parking, all of that stuff. One of the things I wanted to point out is, before they issued these cease and desist orders, they should have had a mechanism in place. I heard the *wahine* earlier, Ms. Diamond, talk about flooding the Department with three hundred twenty (320) applications, but I think if they look at it comprehensively, there are about 1/3 out of that number that would not even meet specifications today, so that is 1/3 off the list. There has to be a faster way than processing ten (10) a year. My teenage daughter could do that in a year. Do you want to hire her? She probably can do it. I just do not see how it could possibly be ten (10) a year. Even though I do not have a B&B, I am upset with that kind of production. You folks are a fiscally responsible Council that is just not fiscally responsible, whatever the issue is. I do not even care what the issue is: camping permits, ten (10) a year, ten (10) a week, that would still be bad. There has to be a limit and eventually a cap on how many can go on a property. I do not think it should be endless and all the add-ons have to be legal and all the structures legal. Some of these folks just add-on so that they can max out what they can, those would be like the 1/3 not getting in, in my opinion. Thank you.

Council Vice Chair Kagawa: Matt, Councilmember Yukimura has a question for you.

Councilmember Yukimura: I do want to respond to the extent that I understand, this Council has been pressuring the Planning Department to enforce the TVR law properly.

Mr. Bernabe: We have been there for the B&B, and it made it seem like it was blurred lines.

Councilmember Yukimura: Let me finish. What I understand is some of the TVR owners or have been when they have been declared legal or determined to be legal, have been trying to get...continue their business as a B&B which makes no sense because they are not present on property.

Mr. Bernabe: I understand.

Councilmember Yukimura: So that has focused the attention on B&Bs, but we do need to have a fair and rational system of regulation of both TVRs and B&Bs.

Mr. Bernabe: I understand.

Councilmember Yukimura: And it has not been done in the best way, but we are here today and we are going to have to do it now.

Mr. Bernabe: Just so you understand at that meeting they led the public to believe that the specific cease and desist letters that went out was in response to direct pressure from you folks. I might have heard it wrong, I do not know, I could be wrong on that too.

Councilmember Yukimura: Well I do not think any of us here have told them, "Go, and give them a cease and desist..."

Mr. Bernabe: And that is what I mean...

Councilmember Yukimura: ...if that was the implication, it was not accurate.

Mr. Bernabe: That is why I was readdressing it, maybe they are not just doing this correctly, I reiterated, and should have had the process first.

Council Vice Chair Kagawa: Thank you. You guys are kind of getting in a debate here. I appreciate you, Matt. Next speaker.

Mr. Fehring: I just wanted to clarify a couple of things, one, you asked, JoAnn, about supplemental income. The reason we require supplemental income is because it helps us during periods of drought, times when the crops are not coming in like they normally do, it is not the bumper year for pineapple or whatever the case may be. It helps us to get by. That is why we need the supplemental income. Just FYI (for your information), I just did my federal taxes not long ago my Schedule F income is double that of my Schedule E supplemental income, so it gives you an idea about where we are personally at. Regarding your concern about the amount of agricultural use on agricultural land and so on and so forth, of course I encourage everybody who is on a piece of land: agricultural, residential, to do some farming, get their hands in the dirt, grow something, it tastes great, and it helps us on the island because it makes us less dependent on imported foods in the long run. Personally, we have five (5) of our seven point six (7.6) acres fully involved in agriculture: tree crops, ground crops, orchards, and animal pastures. Numerous other operators who I have become acquainted with have limited usable agriculture on their agricultural land/parcels, but I believe that any operators that I know would be willing to grow what they could in the way of fruits and vegetables if only for consumption by their guest, themselves, but that is certainly a step in the right direction especially on a marginal agriculture property.

Council Vice Chair Kagawa: Thank you, Bruce. Any questions for Bruce? If not, next speaker.

JULIE CHONG: I was not really prepared to speak today, I did not know if we were able to add comments. I guess I just wanted to make some comments about that ten (10) count cap. I do not know if anybody else has mentioned it, but I think that the three hundred twenty (320) cease and desist forms that are slated to go out, how can those all be processed to have a chance? I know there are a

lot of community opinions and things like that, but I feel like we should all have the chance to be processed in a reasonable amount of time whether it is...I do not know, I feel like saying, "We are innocent until proven guilty." If we could all have that chance to apply for these permits. My husband and I are in the process, we have submitted everything that we need to submit to apply for the permits, and I know someone had mentioned about the three hundred dollars (\$300) for the cost of the use permit and the eight hundred dollars (\$800) for the Class IV Zoning permit. I also remember from last week at some meeting that it was going to be hard for the Planning Department or the Planning Commission to get personnel to take care of this process. I was just thinking maybe with these fees that would be collected, the three hundred dollars (\$300), the eight hundred dollars (\$800), and maybe even the seven hundred fifty dollars (\$750) for the annual renewal for the use permit, maybe that could fund a position to help with this process. I do appreciate the opportunity to apply for the use permit. I think that is it.

Council Vice Chair Kagawa: Any questions?

Councilmember Yukimura: Thank you for being here. Were you one of those who received the cease and desist?

Ms. Chong: We did, yes.

Councilmember Yukimura: I see. Is your situation such that you live on the property?

Ms. Chong: Yes, we do.

Councilmember Yukimura: And that your guests are under the same roof?

Ms. Chong: Under the same roof, yes.

Councilmember Yukimura: Okay, thank you.

Council Vice Chair Kagawa: Anymore questions for Julie?

Councilmember Kualii: How long have you been operating?

Ms. Chong: Since March of 2007.

Councilmember Kualii: I would imagine that part of the reason about the ten (10) is not just about what they can handle, but it is about slowing it down so that those who come through and get approved are legitimate, and meet all the qualifications. I do not know what is possible, but if they did the ten (10) as a minimum, but maybe had some other criteria for people who were doing it for a long time, never had any problems with their neighbors, that maybe they could still have a second opening for those types of people.

Ms. Chong: I think that definitely can be discussed and hopefully there is an open mindedness and we can figure something out.

Council Vice Chair Kagawa: Thank you. Anymore questions? Seeing none.

The meeting was called back to order, and proceeded as follows:

Council Vice Chair Kagawa: Members, any discussion? I have some, but does anybody want to go first?

Councilmember Chock: I appreciate the testimony and I think that...like it was said earlier, there are a lot of things to consider moving forward and we are just at the frontend. I think our initial discussions with the Planning Director, we are all in agreement that we have to do something and how we do it and finding the balance is really key. What I did not hear was a lot of the abuse that has brought us to this point. I think that is really where the sadness comes into play because we would not be here right now having to do this if people were more responsible and considered their neighbors, implications, or impact that they are having on their neighborhoods. It is about responsibility and it starts at home. We did not have to get to this point. We do not want government regulating, I understand that, and it is because we are not being responsible upfront, that we are in the situation that we are in. How we move through this...I am open minded about how we can get to peoples' needs and still live in a place where we have pride in and want to live in. Thank you. I look forward to this moving to Committee.

Councilmember Yukimura: I think well-run, well-designed B&Bs that take into account impacts on neighbors are a very positive thing for our community. I think we need to find out how we can allow them to operate. We also cannot have our neighborhoods turn into a hundred percent (100%) or even eighty percent (80%) B&Bs because we need most of our homes primarily for our residents. I do believe and I am committed to working on a regulatory system that will work well. The other side of the coin as I think Felicia best illustrated is our housing problem, and that is why all those details I have tried to focus on, this idea of permanent affordability and making sure we use our housing resources to get the best return on investment in terms of numbers of units is really important and we have to do both. I appreciate all the testimony that came in today, all the effort that has gone into building good, responsible small businesses, and provide alternative accommodations for visitors. I recognize how difficult a balancing act this is going to be, but we all asked for this job, so we have to get with it and do the job.

Councilmember Kualifi: I will just say that we are at the beginning of this and I am looking forward to getting into all of the details with Planning's presentation and recommendations. I think it is definitely something that we have to deal with.

Councilmember Chock: I wanted to also recognize what I heard, I think it was Ms. Morey talking about just the industry as a whole, and I think that this Council needs to take a look at that because to a large extent it is like a freight-train, it is going to come anyway, so we need to prepare for it. What you are seeing happening like in New York and other cities, I think we need to work even outside of what it is we are talking about here with this Bill in terms of Airbnb and I know just the initial discussions with these providers, I think we need to hold them accountable as well in the process so that we can discern the kinds of properties that are here on this island and what we want. Thank you.

Councilmember Yukimura: The problem on our island is that houses that could be used to house our people are being used as pure investments. It is a really big conflict in many ways, so that is one, and the other I would like to address what Eddie brought up in terms of...it is how we have managed our agricultural lands that has been a mess because our agricultural lands have been identified when the State in 1959 created these four (4) land classifications: urban, rural, agriculture, and conservation, they threw all the leftovers into agriculture. We have this mishmash of agricultural land that we are trying to regulate with one set of regulations and that is why this important agricultural land (IAL) study is important. I am very worried about how we have done it, but that is the other part of policymaking that we have to

put a lot of attention into so that we can really protect our prime agricultural lands which we need for growing food, energy, fiber, and deal with the non-agriculture that are classified as agricultural lands in another way. We have not been very good at doing that. This has been a problem since 1959, but is even greater problem because of all the development pressures since 1978 when our State Constitution was amended and the important agricultural lands mandate was set in the Constitution to the State Legislature. The State legislature did not act on it for thirty (30) years and when they did, they did not do it very carefully. We have not yet solved the problem and in fact we emerged with more problems.

Councilmember Kualii: On the three hundred and twenty (320) establishments that we are referring to now, I would want to know what kinds of permits are already in place, for how long they have been in place, and how they meet the parameters that we are talking about or do not meet. Getting the details and hearing from Planning is where we are going to start from and I appreciate hearing from the public today and I am sure we will hear from you more as we work on this in Committee. Thank you.

Councilmember Kaneshiro: This is only the first reading, of course, I am going to support it, and I know we have a lot of work ahead of us. I was not going to say anything, but this is just the first reading and we obviously have a lot of work to do.

Council Vice Chair Kagawa: First, I want to thank Planning for bringing this Bill, and for adding a lot of white hair to my head. Just the anticipation of dealing with this is sprouting white hair. For me, I look at this and we are at three hundred and twenty (320) and now we want to issue cease and desist letters. Why did we wait so long? If we dealt with it when he had maybe fifty (50) or something, then it would not be too bad, but we are at three hundred and twenty (320), and there is no simple answer for something like that. We are affecting a lot of people's lives. I look forward...I am going to work with Planning Committee Chair Chock, and the best thing we can do at this Council is to listen to the community, to work with our Planning Department, and to come up with solutions to this problem and yet not hurt our residents. That is where we want to go with this. Sure, when you hear stories of what Mr. Lee describes, almost fifty percent (50%) of the residential area are TVRs, B&Bs, and what have you. I thank him for coming forward and standing up for his residential community. Hanalei is gone, beyond that already, the Haraguchi's can grumble about it, but it is too huge of a problem. It is a TVR problem, actually, and I think Planning is working as we speak on the TVR issue, but to now drag in the...we have not even solved the TVR thing and we are trying to slam-dunk this Homestay Bill. I have worries. I definitely think that there is a place for homestays, and to find a nitch in the community that we can handle, of course we do not want to see every residential community come up to fifty percent (50%) like Mr. Lee mentioned, and now he is just here saying, "Come on, and do something." We do not want to get to that point. I think we have a duty as the Council to think about the future. We have to protect our hotel industry and visitor industry by protecting their visitors to push most of our visitors to stay there, not have homestays, B&Bs, TVRs dominate the visitor industry. We are going to have a lot of empty hotels and timeshares. It is really a huge balancing act, but I am confident that at least my support will go towards something that is a compromise. I do not think you let a problem come up to three hundred and twenty (320) and you just cease and desist every one and start all over with ten (10) a year. I think that is unfair. I think if it was that bad of a problem, we should not let it get up to the three hundred and twenty (320). We should have nipped it in the bud when we knew it was a problem. That is where I am at this point. Of course, there are a lot more discussions to come, but certainly, I am going to be looking for Planning. Ka'aina, the Deputy Planning Director, is here and I will be

asking you folks to please help us find that middle ground. Certainly, this lady came up and testified, we have to do something about some of these agricultural ones that are way up where you cannot grow anything. She is not hurting anybody up there with her homestay. Mr. Fehring who is trying to farm, and in trying to farm in the expensive *aina* that we have, it is difficult to survive. It is the most expensive place in the world to live, one could say. He is trying to do the right thing and needs some outside income to help him survive and continue farming food for us. Anyway that is all I have for now and I will have a lot more coming up and a lot more white hair coming up. With that, roll call.

The motion to approve Proposed Draft Bill (No. 2587) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for May 19, 2015, and that it thereafter be referred to the Planning Committee was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Kaneshiro, Kuali'i, Yukimura	
	Kagawa	TOTAL – 5,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Council Vice Chair Kagawa: I have one question for the Council, before we take the next item I want to see if we can get done with the Kiahuna Road item. Do members have questions in detail that they will need answers from Max or not? Councilmember Yukimura, you are good. Okay, we can go on to the next item.

BILLS FOR SECOND READING:

Bill No. 2577 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-31-79, AND ORDINANCE NO. PM-2009-391 RELATING TO ZONING DESIGNATION IN PO'IPU, KAUA'I (*John Horwitz, Peter Baldwin, Matthew B. Guard, and George Robinson, Successor Co-Trustees of the Eric A. Knudsen Trust under Deed of Trust dated April 30, 1922, Applicants*): Councilmember Kaneshiro moved for adoption of Bill No. 2577, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Chock.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for adoption of Bill No. 2577, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro,	
	Kuali'i, Yukimura,	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Bill No. 2578 – A BILL FOR AN ORDINANCE AMENDING ZONING CONDITION IN ORDINANCE NO. PM-2001-354, RELATING TO ZONING DESIGNATION IN PO'IPU, KAUA'I (*John Horwitz, Peter Baldwin, Matthew B. Guard, and George Robinson, Successor Co-Trustees of the Eric A. Knudsen Trust*

under Deed of Trust dated April 30, 1922, Applicants): Councilmember Kuali'i moved for adoption of Bill No. 2578, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Chock.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for adoption of Bill No. 2578, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro,	
	Kuali'i, Yukimura,	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Bill No. 2580 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 17A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUS FARES: Councilmember Yukimura moved for adoption of Bill No. 2580, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kuali'i.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for adoption of Bill No. 2580, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Kagawa, Kaneshiro,	
	Kuali'i, Yukimura,	TOTAL – 5,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Hooser, Rapozo	TOTAL – 2,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Chair, we only have two (2) Executive Session items on page 7, is it the Council's intention to defer?

Council Vice Chair Kagawa: Members, do you want to defer these items? I know the Grading and Grubbing is Councilmember Hooser's item, and I would like to give him the courtesy to be here. The other item is about Puhi Metals Recycling which is Council Chair Rapozo's item, and out of the same respect, can I ask for a deferral on both items?

(Councilmember Kaneshiro was noted as recused for ES-792 and ES-793)

ES-792 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kauai County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests and Executive Session with the Council to provide the Council with a briefing regarding 1) the fact finding/investigation on three parcels of real property, Tax Map Keys (4) 3-3-018-002, (4) 3-8-004-001 and (4) 3-7-001-001,

concerning each parcel's compliance with the Agricultural Dedication Ordinance and the Sediment and Erosion Control Ordinance (Grubbing, Grading and Stockpiling) and related matters and 2) the process for an investigation pursuant to Section 3.17 of the Charter of the County of Kaua'i and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

ES-793 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing regarding Puhi Metals Recycling Center issues and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Chock moved to defer ES-792 and ES-793, seconded by Councilmember Kualii.

Council Vice Chair Kagawa: Did you want to say something?

Councilmember Yukimura: Yes.

Councilmember Chock withdrew the motion to defer ES-792 and ES-793, and Councilmember Kualii withdrew the second.

Councilmember Yukimura: Because I might not be here in the afternoon at the next meeting, I guess I would like to be individually briefed on these two (2) matters because it is of importance to me too, and I just want to be fully briefed. I am just publicly requesting that of the County Attorney.

Council Vice Chair Kagawa: He is nodding his head.

Councilmember Yukimura: Yes, okay. Alright, thank you.

Council Vice Chair Kagawa: Can we have a motion again?

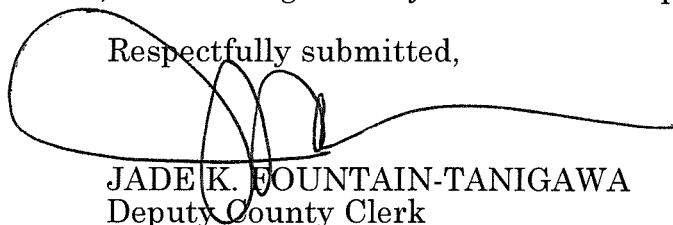
Upon motion duly made by Councilmember Chock, seconded by Councilmember Kualii, ES-792 and ES-793 were deferred by a vote of 4:0:2:1 (Councilmember Hooser and Council Chair Rapozo were excused; Councilmember Kaneshiro was recused).

Council Vice Chair Kagawa: We have a public hearing at 1:30 p.m., and then we will be adjourned. We will break for lunch.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 12:20 p.m.

Respectfully submitted,



JADE K. MOUNTAIN-TANIGAWA
Deputy County Clerk